

Forward Plan reference number: FP/155/06/23

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| Report title: Block contracts for mainstream residential placements for Children and Young people | |
| Report to: Cabinet | |
| Report author: Councillor Beverley Egan, Cabinet Member for Childrens Services and Early Years | |
| Date: 12 September 2023 | For: Decision |
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| County Divisions affected: All Essex | |

1. Everyone's Essex

- 1.1 Everyone's Essex sets out four strategic aims and 20 commitments to residents with specific commitments to improve outcomes for the most vulnerable and disadvantaged groups including Children in Care, Care Leavers and Children with SEND working with partners across the system.
- 1.2 The system refers to: organisations both commercial, public sector and voluntary sector; children, young people and their families, schools and communities and other partners who support young people to achieve their full potential which is fundamental to the work of the Council as Corporate Parents.
- 1.3 In June we were once again recognised by Ofsted, as being outstanding in the care that we provide, however that does not mean that we should be complacent or ignore the challenges that some children and young people (as well as their families) are facing as the long-term impact of Covid on families continues to be felt.
- 1.4 We want to develop appropriate mainstream residential accommodation within Essex, in partnership with the market, so that we can provide support to children and young people as close to home as is practical, giving them a stable home, the opportunity to return to their families if this is appropriate, and minimise, where possible, the disruption to their lives.
- 1.5 This decision will enable the Council to secure improved provision of Ofsted registered, local residential mainstream placements so that Children in Care have the accommodation and support they need as part of our Sufficiency Duty. We will have better access to appropriate placements protecting the availability of accommodation in Essex for Essex children, by reducing the impact on availability that other authorities placing children into Essex have which currently reduces availability for our residents.
- 1.6 This decision also provides better value for money for Essex residents, using a different approach to providing accommodation by reducing our use of "spot"

purchasing where costs can be much higher. The aim with this decision is to reduce our costs which will help us to mitigate increasing demand within the available financial envelope, better managing what is an unpredictable, and increasing demand.

- 1.7 The recommendations have no adverse impacts on the Council's climate objectives. By securing access to local placements, having enhanced access to local capacity, there will be a reduction in travel associated with out of county placements.

2 Recommendations

- 2.1 Agree to invite tenders for block contracts for service providers across Essex for purchasing between 6 and 18 residential places for Children in Care which:
- is procured using a competitive single stage process.
 - is for an initial period of one year but is capable of being extended for a total period of three years (1+1+1).
 - is procured using evaluation criteria based on a price: quality ratio of 70:30.
 - seeks to book no more than five places in any setting.
 - covers a range of needs.
- 2.2 Authorise the Cabinet Member for Children and Families to award the block contracts.

3 Background and Proposal

- 3.1 The Children Act 1989 requires the Council to secure accommodation for children in their care. Accommodation needs to be appropriate, and it is recognised that placement within 20 miles of home and within local authority boundaries is best if possible and appropriate.
- 3.2 As of May 2023, there were 1,150 children in care in Essex. Forecasts show numbers may rise to 1,250 within the next two years, considering pressures from increased separated migrant children, post Covid court delays, the potential impact of the cost-of-living crisis and increased referrals into social care. If that materialised, we could anticipate a need for a further eight residential placements.
- 3.3 As will be seen from the other report on this agenda the Council needs to increase the availability of care for the cohort of children where the Council currently has no choice but to place in unregistered placements. The other report sets out how the council will seek to provide regulated accommodation for that group, with the aim of reducing their needs so that they can move on to more mainstream accommodation.
- 3.4 The Council's Sufficiency Strategy for Children in Care and Care Leavers (2023-2026) 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 (aligned to the Co-parenting Strategy) that children and young people who come into care are placed in high-quality provision; access the right homes at the right time and are in placements where they feel safe.

- 3.5 The Children and Families Residential Programme team has a residential plan that will meet the complexity and challenges of securing sufficient residential placements, whilst meeting cost of care, availability of property and external provider workforce challenges. This has compounded since the pandemic and the cost-of-living crisis.
- 3.6 This plan will see the Council is increasing capacity and access to supply by:
- Working with the market to increase access to externally provided placements in more innovative ways.
 - Developing its own inhouse provision.
 - Developing its own managed placements by securing properties and commissioning external organisations to provide the support and care within those properties.

Current position

- 3.7 Analysis of the residential sector by Revolution Consulting shows that nationally 97% of residential placements are spot purchased, including the use of frameworks and 3% were block purchased.
- 3.8 The Council currently operates under a framework, which replaced the Council's previous approach of spot purchasing. It launched in February 2020 and was a 4-year framework with three lots:
- children with disabilities,
 - children with social emotional mental health and
 - same day emergency placements.
- 3.9 When placements can't be made on the framework, we must make spot placements, which can be expensive as they depend on what terms can be negotiated 'on the day', which may be influenced by the level of demand and whether or not there is anyone outside.
- 3.10 Spot purchasing is not a secure and resilient way of securing sufficiency. The Council has recently observed other local authorities entering into block contracts of residential care places in Essex. This reduces the number of places available for us.
- 3.11 Whilst the current framework does help us meet our needs, it does not give us access to enough accommodation. In 2020/21 only 20% of residential placements were made via the framework, rising to 24% in 2021/22. The Council had anticipated it would be higher.

- 3.12 Providers nationally are experiencing difficulties with access to affordable capital, and securing staff.
- 3.13 Our experience is not dissimilar to that of other local authorities. Local Authorities are instead exploring a mixed economy of in-house services and purchased services via block arrangements or partnerships. Suffolk, Hertfordshire, Norfolk, Oxfordshire and West Sussex have each moved to block purchased placements to some extent.
- 3.14 These authorities have told us that their block bookings are around 90% occupied.
- 3.15 We have spoken to providers of accommodation in Essex. Providers told us that they prefer block contracts as this gives them financial security and transfers the risk of places lying empty to ECC. This is of particular importance to smaller private providers, and it would reduce the risk of settings closing at short notice as a result of financial failure. It also means that ECC can be assured of being able to place in several settings, rather than competing with placements made by other local authorities. Accommodating local children is better for providers as it makes it easier for the young person to maintain social links.

Current provision in Essex

- 3.16 Within Essex, Thurrock and Southend on Sea, there are currently 315 registered children's home places, all run by the private sector and none are run by the voluntary sector. This is unusual as most local authorities have some voluntary sector homes in their area, although nationally there has been a large decline in voluntary sector run children's homes since the 1970s.
- 3.17 As of May 2023, of the 1,150 children in care there are 63 children in mainstream residential placements. In addition to these 63 we need to work to find registered places for those who are currently in an unregistered placement – and there is a report elsewhere on this Cabinet agenda explaining how we aim to do that.
- 3.18 The overall demand for residential placements has remained steady for the last two years, with 5.6% of children in care in mainstream residential placements. There has been an increase in demand for placements that can support young people with more complex needs and vulnerabilities, including those at risk of gang involvement, substance misuse and Child Sexual Exploitation (CSE).
- 3.19 This shows that numerically there is sufficient capacity within the market in Essex to meet our needs, however other authorities, particularly London local authorities make placements within Essex, which reduces availability for the Council.

Proposed Block Contracts

- 3.20 It is proposed to have block contracts with providers under which they will hold beds for ECC. We need to ensure that there is a range of accommodation which

can meet different needs, and which is located across the County so that young people can be accommodated as close as possible to home.

- 3.21 We anticipate contracts with up to eight providers, booking no more than five beds in suitable accommodation. It is proposed that we would block book up to 18 beds which is a third of our current needs. The block booking would be for three years if we exercised the extensions in the contracts.
- 3.22 The evaluation criteria will be 70% price and 30% quality. Providers will be required to meet a robust service specification and submit method statements to enable us to evaluate the quality weighting effectively.
- 3.23 Bids will be ranked and scored based on the outcome of the evaluation of their respective quality and price submissions. Provider quality will be assessed against set criteria that will ensure quality provision involving coproduction with children and young people. Providers' scores for quality and price will then be added together to produce an overall score.
- 3.24 Research by ICHA shows that a third of providers refuse to engage with formal procurement exercises. We need to encourage as many providers as possible to bid and we therefore want to make the process as simple and lean as possible, give providers an extended period to bid and implement a new procurement vehicle different to the traditional spot of framework approaches all whilst being consistent with a procurement which results in a high-quality service.
- 3.25 Significant preparatory work has also been undertaken to improve relations with the local Essex residential market which has gained traction. Notably the well-received Commitment statement (rated 4.5 out of 5 by the market) and a clear, transparent fee uplift process.
- 3.26 The Council will continue to undertake regular engagement with providers to review local capacity and developments, develop stronger relationships, where these will support strategic intentions. The Council will continue to collaborate with neighbouring local authorities to share best practice. This includes membership of the Children's Cross Regional Arrangements Group (CCRAG) alongside 20 other Local Authorities.
- 3.27 The Council are currently working to publish a full Market Position Statement in 2024 to enhance engagement and transparency of the needs our children and young people.
- 3.28 In 2023 the Council were successful in securing £1.8 million of DfE funding to pilot Staying Close, supporting children and young people in care who have experience of residential placements. This is a multifaceted approach, wrapping support around a child and young person up to aged 24.
- 3.29 Post implementation of these block contracts the intention would be to set up a Dynamic Purchasing System (DPS) by the end of 2024 to make it easier to source beds outside the block contract arrangements, given the framework will no longer exist.

- 3.30 It should be noted that the success of a block contract is entirely dependent on the social work placements teams making efficient use of the block bookings – otherwise the Council will be overpaying for provision. Significant work, such as the practice guide, the Service Level agreement, KPI's and key point of contact, will need to be achieved to make sure that placements are made efficiently, whilst still meeting the needs of young people for whom we are responsible for.
- 3.31 This has factored significantly in early planning for this approach, which was co-produced with the Placements team, the Residential Programme Group, Functional Leadership Team and endorsed by the Head of Placements, Sufficiency and Fostering. It has also factored into reaching the recommended 10%-30% block ambition, noting that higher than this figure being too ambitious at the time.

Longer term strategy

- 3.32 It's proposed that the Council will in future start to operate a Dynamic Purchasing System which will replace the current framework.
- 3.33 By 2025 The Council aim to have opened two internal residential settings which directly provide care. As this provision materialises it is anticipated that the need for the block contracts of this nature will reduce.
- 3.34 The Council intends to work with the voluntary community sector with the intention of developing a strategic partnership to increase the amount of provision available in Essex.

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 further reducing the number of out of county placements and the associated travel by visiting social work teams.
- 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

5.1 Current risks around sufficiency, costs, a reduction in providers engaging with procurement and current capacity within the market have been considered for all options, arriving at the recommended option.

Option 1 (recommended)

| Block contract (as set out above) with providers who can work exclusively with ECC. | |
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| Benefits | <ul style="list-style-type: none"> • Material difference to the current framework. • Clear partnership route. • Reduces operational challenges of CYP from other Local Authorities being placed alongside Essex's CYP. • Benefit from a more exclusive relationship including consultancy, workforce, and training support. • Social value – Essex pound. • Choice and flexibility. • Needs led. • Clearly defined neighbourhood issues and support. • Clear quality assurance support for homes under performing if supports only ECC homes. • Reduces the risk of prosecution from Ofsted. • Is complimentary of the approach recommended under 'The response to the PIN'. • Certainty of placement cost over the blocked period. • Unregistered placements are likely to diminish if Ofsted starts prosecuting – this Option provides alternative provision. |
| Risks | <ul style="list-style-type: none"> • ECC carrying the total risk of voids, vacancies, and occupancy levels. <i>This will be mitigated against via the proposed SLA, KPIs, the contract and a practice guide. Which will all support the Placement Team to send timely, appropriate referrals. These same documents set out expectations around the Provider accepting appropriate referrals. The terms and conditions will also contain a 6-month break clause that The Council can enact</i> • Performance issues during the contract term <i>the terms and conditions will include a break clause inclusive of poor performance and or Ofsted compliance</i> • Implementation of new placement processes. • Potential to create a divided market, those who block with the Council and those who don't. • Lack of response, some providers have expressed an unwillingness / ability to block. • May mean a relatively small pool of providers therefore less market resilience in the event of difficulty or failure. |

Option 2

| <ul style="list-style-type: none"> - 10-year DPS - Specific lot to bring specialist out of county providers into Essex in years 3-5. - Specific lot for 3 block bed individual homes. | |
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| Benefits | <ul style="list-style-type: none"> • Symbolic difference to the framework. • Mutually beneficial for providers and placing local authorities, with a commitment and partnership element. • Pushes a localised agenda. • Term of the contract allows for out of county providers to influence their business plans and move into the county. |

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| | <ul style="list-style-type: none"> • Would enhance Sufficiency. • Allows new providers to join. • Reduces the administrative task and onus on providers to continually rebid for work. • Creates an electronic referral system facilitating targeted referrals. |
| Risks | <ul style="list-style-type: none"> • Providers may continue to operate under spot purchase arrangements and may not bid. <p><i>The evaluation process will be as lean as legally possible to reduce the ask on providers.</i></p> |

Option 3

| 'Do nothing' allow the framework to end, spot purchase only (reverting to pre framework arrangements) focusing on relational commissioning. Explore retainers on individual local beds which meets the needs of our children. | |
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| Benefits | <ul style="list-style-type: none"> • This is often a provider's preference. • Promotes planned moves via vacancy discussions. • Removes a lot of bureaucratic challenges and delays. • Allows for flexible vacancy and first refusal discussions. • Will allow for the Regional Collaboration Cooperatives pilots to conclude and ECC to consider the learning. |
| Risks | <ul style="list-style-type: none"> • New providers may require more financial certainty. <p><i>Smaller and newer providers could benefit from instead bidding for the 'response to the pin tender'</i></p> <ul style="list-style-type: none"> • Reduced contractual safety net. • Prices subject to market forces. |

Option 4

| Recommission the framework – Not recommended. | |
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| Benefits | <ul style="list-style-type: none"> • Easy to mobilise. |
| Risks | <ul style="list-style-type: none"> • Evidenced low levels of purchasing activity via this route so high levels of spot purchasing likely. • Providers won't engage – the market has been clear there is no merit in this approach. |

6 Issues for consideration

6.1 Financial implications

- 6.1.1 The recommended option is to procure block contracts for 10-30% of the mainstream residential cohort, with providers who can work exclusively with ECC. This represents between 6 and 18 placements, based on the current mainstream residential cohort of 63 (June 2023). The Cabinet report elsewhere on this agenda requests permission to block several solo placement beds and any block through that route will contribute to the total of up to 18 requested in this report.
- 6.1.2 The actual contractual commitments will be dependent on a range of variables, including but not limited to, availability and length of placements, complexity of need, demand and individual service cost of each provision.
- 6.1.3 Option 1 (Recommended) costs would be dependent on the number of providers bidding. It is expected that the costs would be similar to current rates paid through current spot purchasing arrangements, with a potential lower cost due to the contract certainty provided by a block. This would be balanced against the potential that ECC could be paying for periods of void, although this will be actively managed to try to keep voids to a minimum. In the first four months of financial year 2023/24, the average rate agreed for new mainstream residential placements has been £5,963 per week.
- 6.1.4 It is therefore estimated that up to nine group care block bookings at this rate (total £1.399m), plus the additional nine blocked solo placements as a result of the Residential places for young people coming into care paper (total £3.285m), could cost up to £4.7m in the remaining six months of 2023/24 (or **£9.3m** per annum at 2023/24 prices). Expected inflation has been added into future years, and the table below shows the potential commitment over the Medium-Term Resource Strategy (MTRS) period.
- 6.1.5 The figures outlined account for nine solo placements being block booked for 36 months as per the Residential places for young people coming into care paper, with a further nine placements being block booked in group care homes under the strategy outlined in this paper. At the end of 36 months, 9 group care placements are costed for as the solo placements come to an end.
- 6.1.6 The budget for mainstream residential placements in the MTRS is shown below. It is expected that any contracts with providers will be supported through this budget in the first instance, and full cost of all placements will need to be managed within this budget envelope.

| Cost centre | 2023/24 Budget £000s | 2024/25 Draft Budget £000s | 2025/26 Draft Budget £000s | 2026/27 Draft Budget £000s |
|---|----------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Mainstream Residential North | 4,646 | 4,614 | 4,415 | 4,200 |
| Mainstream Residential Mid | 2,632 | 2,614 | 2,501 | 2,379 |
| Mainstream Residential West | 3,266 | 3,244 | 3,104 | 2,952 |
| Mainstream Residential South | 4,780 | 4,747 | 4,542 | 4,321 |
| Total Mainstream Residential | 15,323 | 15,219 | 14,562 | 13,852 |
| Unregistered budget | 1,280 | 1,280 | 1,280 | 1,280 |
| Total budget | 16,603 | 16,499 | 15,842 | 15,132 |
| Roach Vale (approved) | (422) | (723) | (723) | (723) |
| Woodlands (in governance) | (800) | (800) | (800) | (800) |
| New Farm Road (at Design Authority) | 0 | (1,000) | (1,500) | (1,500) |
| Residential places for young people coming into care (block bookings) | (3,285) | (6,754) | (6,956) | (3,582) |
| Block contracts for mainstream residential placements (block bookings) | (1,399) | (2,877) | (2,963) | (4,578) |
| Remaining unallocated budget | 10,698 | 4,346 | 2,900 | 3,949 |

6.1.6 Option 2 to secure ECC's guaranteed access to provision of all options comes with the highest associated financial liabilities for ECC. At 10% of current mainstream residential spend this would represent a £1.52 million annual commitment. Although full costs wouldn't be known until post procurement.

6.1.7 Option 3 is predicated based on operating retainers. This represents a 4 weekly commitment as opposed to the above 52-week commitments but doesn't secure the usage solely for ECC children and young people.

6.1.8 Option 4 it not recommended as the current position is that Essex do not have access to enough placement options within County. The lack of sufficiency has impacted the increased number of unregistered placements which is untenable for the Council.

7. Legal implications

7.1 Section 22G of the Children Act 1989 places the council under a general duty to secure, so far as reasonably practicable, that it is able to place children we look after in accommodation in Essex which meets their needs, so far as is consistent with their welfare.

7.2 In taking steps we must have regard to the benefit of having

- (a) a number of accommodation providers in their area that is, in their opinion, sufficient to secure that outcome; and
- (b) a range of accommodation in their area capable of meeting different needs that is, in their opinion, sufficient to secure that outcome.

- 7.3 It will be seen from this report that this report is very much focussed on ensuring that there is a number of providers and a range of accommodation which meets the needs of our residents.
- 7.4 As set out in the report the Council sometimes has to place children in accommodation other than with a foster carer or a registered children's home. Such placements are in breach of the statutory duty. The Council does everything it can to avoid this and puts stringent additional safeguards in place when it does so. This issue has already been identified in the annual governance statement for 2022/23 which was reported to Cabinet in July 2023.
- 7.5 Procurement of a block contract for these services is subject to the 'light touch' regime meaning that the procurement opportunity has to be advertised, competitive, transparent and fair but can otherwise follow a process determined by the council. It is important to ensure that we do comply with these rules especially given the need for geographical spread of places as well as suitability to meet a range of needs.

8 Equality and Diversity Considerations

- 8.1 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.
- 8.2 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).
- 8.3 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.

9 List of Appendices

Equalities comprehensive impact assessment.

10 List of Background papers

Block contracts for mainstream residential placements for Children and Young people.

Framework Review