

# Delegated Decisions report



22 August 2023

## INDEPENDENT FOSTERING AGENCY AND RESIDENTIAL PLACEMENTS FRAMEWORKS AND YOUNG PEOPLE

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Exempt / confidential / not for publication	<b>No</b>
Council Plan reference	<b>Ref number / Not in Council Plan</b>
Wards affected	<b>All wards</b>

### Executive Summary

The Council is required to place all Looked After Children in accordance with The Children Act 1989: The Care Planning, Placement and Case Review (England) (Amendment) Regulations 2021.

For a number of years, the Council has subscribed to the LCS (London Care Services) Frameworks which enabled it to commission placements for Looked after Children from an IFA (Independent Fostering Agency) or Residential Care Home.

However, since LCS closed the Frameworks at short notice, earlier this year, placements have been commissioned on a Spot Purchase basis, whilst a suitable, longer term commissioning solution is identified.

Having considered all available options, the Children and Young People Placement and Budget Sufficiency Board has agreed to recommend that the Council apply to join the South-Central IFA and Residential Frameworks, which is commissioned by Southampton Council and managed by BCP (Bournemouth, Christchurch and Poole) Council on behalf of a consortium of 18 local authorities.

## 1. Proposed Decisions

- 1.1. That an application to join the South-Central Independent Fostering Agency (IFA) and Residential Placements Frameworks from 1 October 2023 be approved.
- 1.2. That, due to the current waiver ending on 31 August 2023, the present arrangements for September 2023 be continued.

## 2. Why is the Decision Needed?

- 2.1. That the current waiver was approved by the deputy Section 151 Officer on 13 February 2023 and ends on 31 August 2023. Therefore, there is a gap of one month during September 2023. Due to this an approval is required to continue with present arrangements for the month of September 2023 while waiting to join the South-Central IFA and residential Frameworks from 1 of October 2023. The ability to join the South-Central framework is every three months, so it is not possible to join any earlier.
- 2.2. The Council is required to place all Looked After Children in accordance with The Children Act 1989: The Care Planning, Placement and Case Review (England) (Amendment) Regulations 2021.
- 2.3. Until earlier this year, the Council subscribed to the LCS (London Care Services) Framework, in order to commission IFA and Residential Care Home placements from Ofsted regulated providers. On occasions, placements have been commissioned on a Spot Purchase basis, but only where there is no capacity among framework providers to accommodate to be placed.
- 2.4. At the end of 2022, LCS notified all the member local authorities of its intention to close the Framework on 31 March 2023 and advised that the London Care Services Model Contract 2018 - Standard Terms and Conditions, used to confirm placements made via the Framework, would also expire on this date.
- 2.5. Consequently, approval to waive the usual procurement rules was obtained to:
  - (a) direct award contracts for all the existing placements, thereby ensuring continuity of provision until such time as the placement is no longer required and/or the child or young person reaches the age of 18; and
  - (b) Spot Purchase placements whilst an alternative longer-term commissioning solution is identified the waiver ends on 31 August 2023; and
  - (c) although there are no risks associated with having a gap of one month, we do need an approval to ensure that the current procurement process will continue.

- 2.6. Having carefully considered the available options, the Children and Young People Placement and Budget Sufficiency Board has concluded on 24 May 2023 that the South-Central Frameworks offer the most effective way of ensuring compliance procurement rules whilst providing the Council with access to placements at competitive rates.
- 2.7. The South-Central Frameworks are commissioned by Southampton Council and managed by BCP (Bournemouth Christchurch and Poole) Council on behalf of the partner local authorities.
- 2.8. Although there are no risks associated with having a gap of one month, an approval to ensure that the current procurement process will continue in the month of September 2023 is required via Delegated Decision.

### 3. Implications of the Decision

Financial	Y	Human rights, equalities, diversity	N
Legal	Y	Policies or Council Plan	Y
Communication	N	Procurement	Y
Energy Efficiency	N	Workforce	N

#### (a) Financial Implications

The total cost of joining the South-Central Placement Frameworks is £10.5k (IFA Framework: £4.5k; Residential Framework is £6k).

The total annual subscription fee is £3k (IFA Framework: £1.5k; Residential Framework: £1.5k).

Additional fees incurred are based on the number of placements made by the Council each year and calculated as a proportion of the overall number of placements made collectively by the participating local authorities. The actual amount payable is calculated as a proportion of £100k for each Framework.

For comparative purposes Reading Council's use of the IFA Frameworks for 2021/22 was 8% of the overall number of placements made, equivalent to £8k in additional fees. For the Residential Framework Reading Council's usage was 2.54%, equivalent to £2.5k

Based on the above the Council could anticipate annual fees of £9.5k for the IFA Framework and £4k for the Residential Homes Framework. The total annual cost for both frameworks would be in the region of £13.5k.

Whilst it cannot be guaranteed that the prices charged by the Framework providers will be less than that which could be achieved on a Spot Purchase basis, it is accepted that continuing to Spot Purchase provision in the longer term would not be compliant with procurement rules.

(b) Legal Implications

The Council is required to place all Looked After Children in accordance with The Children Act 1989: The Care Planning, Placement and Case Review (England) (Amendment) Regulations 2021.

The South-Central Frameworks are commissioned by Southampton Council and managed by Bournemouth, Christchurch & Poole Council will enable the Council to secure placements for Looked After Children with an IFA or Residential Care Home.

The Frameworks commenced on the 1st of April 2022 and are intended to run for an initial period of four years with scope, at the discretion of the consortium, to be extended by a further two periods, each of 12 months.

To join the Frameworks, the Council is required to agree to the terms of the 'Framework Co-ordination Partnership Agreement' which sets out roles, responsibilities and working arrangements for the co-ordination and operation of the Framework(s) and the 'Framework Agreement', which sets out the terms and conditions that providers except for any children and young people placed with them.

The Council's legal team have reviewed the above documents and confirmed that there are no onerous terms or conditions that are of concern.

Whilst approval obtained via waiver to Spot Purchase services provided a necessary short-term solution, the Frameworks will ensure that in future services will be obtained in a way that is fully compliant with procurement rules.

(c) Procurement Implications

Whilst it is acceptable, given the circumstances, to commission placements on a Spot Purchase basis as an interim measure, a longer term solution is required in order to comply with procurement rules. The South Central IFA and Residential Frameworks provide a commissioning solution that will ensure compliance.

(d) Council Plan

The Frameworks will contribute to the delivery of the following Key Priority and Outcome, as listed in the Milton Keynes Council City Plan (2022 - 2026).

- Tackling Social Inequality.
- Excellent services for our children and young people.

## 4. Alternatives

4.1. Consideration has been given to establishing the Council's Frameworks. However, this is not thought to be a viable solution at this time, for the following reasons:

- The timescales for commissioning and procuring new frameworks would result in the Council having to spot purchase provision for up to a year.
- There is a lack of incentive for providers to join, given the relatively low volume of placements required by the Council each year.
- The Council's Frameworks are unlikely to generate provider prices for placements that compare favourably with those achieved by larger regional frameworks.

4.2. Communication with over 36 local authorities that currently subscribe to CCrag (The Children's Cross Regional Arrangements Group) has identified the following Frameworks that the Council could potentially join. (Those known to be operating in the north of England have been excluded).

4.3. Option 1: Commissioning Alliance DPV (Dynamic Purchasing Vehicle)

- The DPV is seen by a number of local authorities, mainly in London and the Southeast, as a viable alternative to the LCS Frameworks.
- Similarly, a number of providers that were previously listed on the LCS Frameworks have joined the DPV.
- The Cost of joining the DPV and associated annual costs are relatively high (Joining Fee: £15k; Annual Fee: £70k) and likely to only represent good value for money where the local authority is a high-volume user (Join Fee: £15k; Annual Fee: £70k)

4.4. Option 2: South Central Frameworks (**recommended**)

(Commissioned by Southampton Council and managed by Bournemouth, Christchurch and Poole Council)

- Considered by a number of local authorities, many of which are outside of London and the South East, to be a viable alternative to the LCS Frameworks.
- Costs of joining the DPV and associated annual fee (Joining Fee: £10.5k; Annual Fee: £3k) are significantly less than for the Commissioning Alliance DPV.
- Additional fees incurred, based on the number of placements made by the Council each year and calculated as a proportion of the overall number of placements made collectively by the participating local authorities are highly unlikely to rise to the point where the Commissioning Alliance DPV offers comparable value for money.

#### 4.5. Option 3: Newham Council DPS

- Having previously subscribed to the LCS Placements Frameworks, The IFA and Residential DPS was developed to mitigate the risks arising from its closure.
- As to be expected for a new DPS there are relatively few providers that have joined, and most are London based.
- Whilst Newham Council is open to other local authorities joining the DPS there is little or no incentive to expand the number of providers on the framework whilst Newham remains the only local authority that has use of it
- Costs of joining and annual fees have not yet been determined as no other local authorities have previously considered subscribing to it.

### 5. Timetable for Implementation

- 5.1. An application to join the Frameworks will need to be considered and approved by the South-Central Partnership Board.
- 5.2. On approval the Council will have access to the Frameworks from 1 October 2023.

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#### List of Annexes

None

#### List of Background Papers

None