

From: Sue Chandler, Cabinet Member for Integrated Children's Services
Sarah Hammond, Corporate Director of Children, Young People and Education

To: Children's, Young People and Education Cabinet Committee – 13 September 2022

Decision No: 22/00079

Subject: Supported Accommodation

Classification: Unrestricted

Past Pathway of Paper: CYPE Cabinet Committee 1 March 2022

Future Pathway of Paper: Cabinet Member Decision

Electoral Division: All

Summary:

This report details the challenges encountered as part of a recommissioning programme for accommodation services for 16-21-year-olds, in light of the announcement from Ofsted to introduce regulation to previously unregulated provision. The Young Person's Supported Accommodation and Floating Support (YPSAFS) and Shared Accommodation contracts were due to expire on 30 September 2022 and 31 October 2022 respectively. Following agreement of a Direct Award, the contracts now end on 31 March 2023. These contracts require recommissioning to accommodate KCC's children and young people from the age of 16 to meet KCC's Sufficiency Strategy 2022-2027 requirements.

In December 2021, Ofsted announced that all accommodation for 16/17-year-old children would need to be regulated in a previously unregulated market which has significantly impacted the proposed direction of travel. The announcement derailed a years-worth of commissioning activity. As of August 2022, Ofsted have yet to publish the final details on the new regulations. It is anticipated that the requirements will not be published until late December 2022.

Changes in regulation provides additional complexity in recommissioning services that have previously been unregulated. In the absence of clear guidance from Ofsted, developing the specification within the timescales and the potential of mobilising a new provider could be challenging and has many associated risks.

It is therefore proposed that a Key Decision is sought to directly award contracts to Clearsprings Ready Homes (Shared Accommodation) from 1 April 2023 to 31 March 2024 and to Look Ahead Care and Support, Sanctuary and YMCA Thames Gateway (Young Persons Supported Accommodation and Floating Support) from 1 April 2023 to 31 March 2024, on a reducing scale. These providers hold the existing contracts which have been extended under a Key Decision taken in March 2022. This action is sought to provide additional time, prior to regulation of these services being introduced, so that the implications are more fully understood by the Council and potential providers bidding for the services before entering a procurement exercise.

Recommendations: The Children, Young People and Education Committee is asked to **CONSIDER** and **ENDORSE** or **MAKE RECOMMENDATIONS** to the Cabinet Member for Integrated Children's Services on the proposed decision (attached as Appendix One) to:

- a) **AGREE** to directly award a new contract, under the same terms and conditions to Clearsprings Ready Homes from 1 April 2023 to 31 March 2024 for Shared Accommodation services.
- b) **AGREE** to directly award a new contract under the same terms and conditions to Look Ahead Care and Support, Sanctuary and YMCA Thames Gateway from 1 April 2023 to 31 March 2024 for the Young Person's Supported Accommodation and Floating Support (YPSAFS) services, on a reducing scale.
- c) **AGREE** to procure new Supported Accommodation Services effective 1 October 2023 for a minimum of four years with potential further extensions of up to four years.

1 Introduction

- 1.1 The Young People's Supported Accommodation and Floating Support (YPSAFS) and Shared Accommodation contracts were due to expire on 30 September and 31 October 2022, respectively. Following an agreement of a Direct Award, the contracts now end on 31 March 2023.
- 1.2 These contracts still require commissioning to accommodate KCC young people/young adults from the age of 16 to meet KCC's Sufficiency Strategy 2022-2027 requirements.
- 1.3 KCC has a statutory responsibility to safeguard and promote the welfare of Kent Children in Care and ensure best value for money it spends on behalf of the Kent population. It also has a statutory responsibility to ensure there is a safe and sufficient accommodation for Children in Care.
- 1.4 The Shared Accommodation contract is currently held by Clearsprings Ready Homes and commenced on 1 November 2017. There is no provision in the contract to extend.
- 1.5 The Young Persons Supported Accommodation and Floating Support contract is currently held by Look Ahead for West Kent and South Kent, Sanctuary Housing for East Kent, and YMCA Thames Gateway for North Kent. These contracts commenced on 1 October 2018 and there is no provision in the contract to extend.
- 1.6 Following full analysis of the provision data, market position and engagement with Social Workers, Personal Advisors, the Strategic Unaccompanied Asylum-Seeking Children (UASC) service, District and Borough Councils, providers of accommodation services and young people, a Business Case and Commissioning Plan were developed and were due to be presented to the Children, Young People and Education Cabinet Committee in January 2022. However, the announcement by Ofsted in December 2021 to require regulation in a previously

unregulated accommodation market has significantly impacted the proposed direction of travel.

- 1.7 More information has come to light since the initial announcement which has enabled a more informed set of options for consideration although without full clarity, to enter into the recommissioning plans that were due to be proposed for decision at this stage could introduce significant service, financial and contractual risks to the Council.

2 Current situation

- 2.1 Currently, semi-independent accommodation is being used by the authority to place more children and young people with complex backgrounds, multiple issues and often a history of breakdown in regulated accommodation. These children can be very difficult to place in regulated provision, therefore end up in unregulated settings, using bespoke packages of support.

- 2.2 Accommodation services that fall out of regulation have been widely used nationally and have, in some cases, had poor media coverage. In Kent, we have used unregulated provision as follows:

- **Shared Accommodation.** This was initially commissioned to act as move-on accommodation for the UASC cohort after their eight-week stay in a Reception Centre. This is usually a three or four bed property used with matched young men aged 16+. This is an accommodation-only model with support from the Social Worker or Personal Advisor.
- **Semi-Independent Accommodation.** This is spot purchased from Providers where Commissioners check the appropriate policies and procedures for understanding and supporting young people. This is usually a three or four bed property with an office for staff to be on site occasionally, between 8am and 8pm or 24 hours a day depending on the way the provider has set up their service or the needs of the young people. More recently, this type of accommodation is being used to place more children and young people with complex backgrounds, multiple issues and often a history of breakdown in regulated accommodation. These children can be very difficult to place in registered provision (children's homes or fostering) and therefore end up in unregulated settings, using bespoke packages of support. Paradoxically, many of these complex young people thrive. Ofsted has already outlawed this accommodation for under 16-year-olds requiring providers to immediately close or become registered.

- 2.3 Shared Accommodation has grown significantly since the start of the contract and not in-line with a predicted reduction as detailed in the Sufficiency Strategy. This is due to the fluctuating unpredictable UASC arrivals and the flexibility of the provider through the pandemic where move-on from accommodation was restricted.

- 2.4 In 2021, the Change for Kent Children Programme established a workstream to focus on reducing the number of young people in high-cost Semi-Independent Accommodation. This saw a shift of citizen young people moving into Shared Accommodation.

- 2.5 Overwhelming feedback from social care professionals was the need to introduce a package of support to young people in Shared Accommodation where they were continually causing disruption in the properties due to cleanliness and damage. This was included as part of the accommodation pathway for the initial recommissioning plans for the services.
- 2.6 Providers of both Shared Accommodation and YPSAFS have worked in partnership with KCC to deliver services and accept a lot of risk that may not be appropriate to that which is commissioned. Good effective relationships have been developed which enable open and transparent conversations about provisions, young people and an understanding of the challenges faced.
- 2.7 The need to accommodate high needs complex young people has increased alongside a lack of suitable accommodation, provider risk appetite or availability at an affordable cost.

3 Activity and Costs

- 3.1 The table below shows the placement costs for 16 and 17-year-olds currently in Shared and Supported Accommodation services being required to move to spot-purchased semi-independent accommodation if contracts are not renewed. Under Ofsted proposals, semi-independent would still need to become regulated and would likely incur additional costs.

| Provision | Current standard weekly cost | Number of 16/17 year old Children as of 30.06.22 | Total Weekly Cost | Total Weekly Cost if moved to semi-independent | Difference weekly cost |
|------------------------------------------|------------------------------|--------------------------------------------------|-------------------|------------------------------------------------|----------------------------------------------|
| Semi-Independent Accommodation | £550 | 87 | £47,850 | £47,850 | £0 |
| Supported Accommodation | £420 | 60 | £25,200 | £33,000 | £7,800 |
| Shared Accommodation (No support) | £125 | 101 | £12,625 | £55,550 | £42,925 |
| | | | | Total | £50,725 (Weekly) £2,645m Annually |

- 3.2 The number of young people across the provision, age and status is detailed below:

| Provision | Number of 16/17 year olds as of 30/06/22 | Citizen/UASC | Number of 18+ as of 30/06/22 | Citizen/UASC |
|--------------------------------|------------------------------------------|-----------------------|------------------------------|---------------------|
| Semi-Independent Accommodation | 87 | UASC 18 Citizen 69 | 2 | UASC 0 Citizen 2 |

| | | | | |
|----------------------------------|----------------------------------------------------|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| Supported Accommodation (YPSAFS) | Children in Care - 27 Children in Need - 33 | This data is currently being sourced. | CL – 61 Former Children in Need – 34 (Note lower numbers than usual due to significant damages caused by CLs causing delays in re-letting) | |
| Shared Accommodation | 101 | UASC 91 Citizen 10 | 467 | UASC 419 Citizen 48 |
| Totals | 248 | UASC 109 Citizen 79 | 530 564 (incl 34) | UASC 419 Citizen 50 |

4. Challenges and Risks Impacting on Recommissioning and Service Provision

4.1 What we currently understand about Ofsted’s position and future intentions to regulate the unregulated provision is as follows:

- It is still unknown if the new regulations will include the Reception Centre estate, although may release standards and conditions to be met.
- From 9 September 2021, placements for children aged under 16 in unregulated provision receiving, or not receiving, **care** or **support** was outlawed.
- **Care** provided in accommodation provision for anyone under 18 must be regulated, both the care and the property.
- It remains unclear when new placements must be in regulated provision, now assumed 1 October 2023. However, it was initially indicated that from 1 April 2022, providers delivering unregulated provision must take steps to become regulated providers by Ofsted. There has since been further communication where Ofsted will begin registering providers from April 2023 ahead of the new national standards becoming mandatory for all providers from Autumn 2023, at which point all providers will need to be registered with the first full inspections expected to begin from April 2024.
<https://www.gov.uk/government/consultations/introducing-national-standards-for-unregulated-provision>
- Changes in regulation provides additional complexity in recommissioning services that have previously been unregulated. In the absence of clear guidance from Ofsted, developing the specification within the timescales and the potential of mobilising a new provider could be challenging and has many associated risks.

4.2 The table below seeks to identify the impact against the known challenges and risks. Further work is needed to understand and plan all impacts and to develop revised Commissioning approaches. To have a contract in place by April 2023 would potentially risk young people having to move in an unplanned way, providers building in costs, reputational risk for the local authority if the procurement is to be aborted. The recommendation in this report is not without risk and could be at risk of challenge if not managed appropriately. It is therefore

suggested a further Voluntary Ex-Ante Transparency (VEAT) notice is published to reduce the risk of challenge prior to the contracts expiring.

Risks

| Challenge/ Risk | Impact |
|------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Insufficient clarity of what the regulations may entail. | <p>Providers costing in the risk of regulation expecting it to be as robust as regulations for residential and fostering services.</p> <p>Inaccurate specification due to not knowing the regulation requirements resulting in the contract not being fit for purpose.</p> |
| Current providers may not wish to become regulated. | <p>The properties accommodating approx. 800 of Kents young people/young adults may not be accessed by a new provider leaving a longer mobilisation period.</p> <p>Uncertainty that the market has enough regulated services to meet the Councils needs and demand.</p> <p>Uncertainty of the qualified workforce required including the potential cost impact of staffing.</p> |
| Psychological, social, and academic impact on children and young people following multiple placement moves | <p>The uncertainty of the Ofsted regulation requirements could lead to having to go out to the market for a second time due to providers not becoming regulated. Children and young people would be forced to move following the placement breakdown. This would have impact on their mental health and result in poor outcomes.</p> <p>If the incumbent providers are unsuccessful, every existing child and young person will need to move into a spot purchased contract, and then subsequent moves into the new providers.</p> |
| Cost of multiple procurement exercises. | <p>Challenging timescales to achieve a successful procurement if going out to tender in September/October 2022. Uncertainty of the Ofsted regulation requirements could lead to having to go out to the market for a second time.</p> <p>The estimated cost in procuring these services is £114k. Going out to market multiple times would result in a significant cost in procurement costs to the Council.</p> |

Options considered:

We had to consider the risks highlighted above as part of the options appraisal exercise and the options identified at this stage, due to the unknown detail from Ofsted, can be found below. The preferred option that would allow services to continue, to the point of known regulation requirements, would be Option 2, to directly award 12-month contracts under the same terms and conditions to the

incumbent providers (on a reducing scale for YPSAFS). This would allow sufficient time to specify requirements, run a compliant procurement exercise, and ensure continuity of service for our children and young people.

- **Option 1: Run a tender process for the new services to commence in April 2023 for all new placements. Either directly award a contract or move to spot purchased arrangements for up to one year to the incumbent providers for existing placements. This will provide a managed mobilisation period for the successful providers to become registered. Existing placements would then transition over once they are registered –** If the communication from Ofsted, that states providers must be registered by Autumn 2023 stands, then technically there could be a number of unlawful placements from Autumn 2023 to April 2024 if the successful providers of the new services fail in their registration, leading to another procurement exercise to be carried out and any unlawful placements having to move to a higher cost registered spot purchased service.
- **Option 2: Directly Award one-year contracts from 1 April 2023 to the incumbent providers and run a tender process for the new Supported Accommodation Service to commence from 1 October 2023.** Ofsted are currently indicating that guidance will be issued by December 2022. KCC will be clearer on what it is looking to buy, and Providers will be clearer on their requirements. Providers will be able to understand what being Registered and Regulated will mean and submit better informed costed bids. KCC would prioritise transferring the existing 16/17-year-olds into the new contracted arrangements from 1 October 2023, with an understanding that there is a manageable plan for these young people by the time Providers are inspected in April 2024. The 18+ young people will be able to remain in contracted provision and either moved onto spot contracts or transitioned into the new services/better suited services for their needs post 18.
- **Option 3: Directly Award six-month contracts from 1 April 2023 to the incumbent providers and run a tender process for the new Supported Accommodation Service to commence from October 2023.** This is the same for option 2 other than a potential to move all young people, either physically or onto spot contracts, depending on who is successful at tender. This would make mobilising a challenge for the 18+.

4.3 Based on the above options appraisal Strategic Commissioning recommends **Option 2, Directly award one-year contracts from 1 April 2023 to the incumbent providers and run a tender process for the new Supported Accommodation Service to commence from October 2023.** This will require a reducing contract for YPSAFS as the new contract from 1 October 2023 mobilises.

4.4 Strategic Commissioning expect the new service contract term to be four years with the option to extend for two additional years with a further option to extend for another two years.

5. Timescales

5.1 Should the recommended option be agreed, work will continue to finalise specification development and preparation of Invitation to Tender documentation.

A procurement process can be implemented to ensure that there is no gap in provision and enabling a new service to be in place from 1 October 2023.

- 5.2 The initial Procurement timetable for accommodation services from November 2021 allowed a 10-month tender and mobilisation period. With the announcement and the initial plan having to be largely aborted, a new tender and mobilisation period would need to commence in September 2022, or beginning of October at the very latest, to achieve full re-procurement.

6. Financial Implications

- 6.1 The annual value of these contracts is approximately £6.7million combined (for 2021/22). The Shared Accommodation service element is largely funded from the Home Office grant and is the largest area of spend at £4.2m. Some shared accommodation costs along with the YPSAFS contract is funded from the General Fund. The YPSAFS contract is £2.4-£2.8m per year dependent on the number of children in care placed in the service.
- 6.2 Assuming providers will accept a new contract for 12 months at the same level of cost, this is already included in the revenue budget under the following budget lines. “Looked After Children – Care and Support”, “Children in Need – Care and Support”, “Care Leavers Service” and “Asylum”.
- 6.3 Regardless of whether the Ofsted regulations were being introduced, a significant increase in the weekly blended rates would be expected. This is due to accommodation costs drastically increasing since the original contracts were let in 2017/18 because of higher inflation, rising costs of living and housing stock availability. In addition, there has been no annual inflationary uplift to the contracts.
- 6.4 Once the new Ofsted Regulations are known, financial forecasting and requirement of needs will be significantly more accurate, which supports the proposal for a direct award.
- 6.5 The approximate cost of running a procurement exercise is £114k therefore running multiple procurements would be a costly and time-consuming exercise.
- 6.6 The Department for Education¹ has included investment to Ofsted from the Spending Review worth £17 million between April 2022 and March 2025 to build up the capacity and capability to deliver the new system of regulation and inspection. They state that “a further £121 million from the overall settlement for these reforms will be distributed to councils to cover the cost associated with introducing the national standards.” And that “the Department for Education will also invest an additional £1.25 million from the Spending Review settlement to help ready the sector for the reforms.”

7. Legal Implications

- 7.1 The Council has a statutory duty to provide suitable and safe accommodation that has the right level of support for Children in Care (including UASC) in accordance with the Children’s Act 1989.

¹ <https://www.gov.uk/government/news/transformational-investment-in-childrens-social-care-placements>

- 7.2 The Council must provide Care Leavers (including former UASC) with support and financial support to assist in promoting their welfare, especially in relation to maintain suitable accommodation and helping them access education, training, and employment.
- 7.3 Spending the Council's Money expects procurement to be competitive. Directly awarding the contract could be considered a suitable route under Regulation 72 of the Public Contract Regulations 2015.

8 Equality Implications

- 8.1 An Equality Impact Assessment (EqIA) was completed as part of the planned redesign and recommissioning of the Shared Accommodation and YPSAFS service.
- 8.2 Directly awarding contracts would pose no immediate change to the service for those young people and therefore the risk of any adverse impact is limited. A full EqIA will be completed as part of the new full commissioning activity once the known direction is confirmed.

9 Other Corporate Implications

- 9.1 The Council's Sufficiency Strategy sets out our approach to providing secure, safe, and appropriate accommodation to Children in Care, Care Leavers, and Homeless 16/17-year-olds.

10. Governance

- 10.1 Accountability sits with the Corporate Director for Children, Young People and Education. Responsibility sits with the Directors of Integrated Children's Services.

11. Data Protection Implications

- 11.1 A Data Protection Impact Assessment (DPIA) for any recommissioned service will be implemented following contract award in 2023.

12. Conclusions

- 12.1 The announcement derailed a years-worth of commissioning activity and, once the requirements from Ofsted are more defined, a revised engagement programme can be completed, and a clearer commissioning plan can be developed.
- 12.2 With the contracts ending in March 2023, even if the requirements were clearly defined, a procurement exercise would be challenging.
- 12.3 In order to ensure the Council meets its statutory requirements to the 16/17-year-old cohort up to the point of regulation, to allow greater time to understand the full implications and specify requirements, including budget and whether any new burdens funding will follow to meet the impact on KCC, the Cabinet Member will be asked to consider directly awarding contracts to Clearsprings Ready Homes, Look Ahead Care and Support, Sanctuary and YMCA Thames Gateway. Commissioners would work with providers to seek acceptance to a direct award on the same terms and conditions and cost for the period to mitigate on potential

challenge on those points, recognising the YPSAFS contracts will be on a reducing scale.

13. Recommendations

Recommendations: The Children, Young People and Education Committee is asked to **CONSIDER** and **ENDORSE** or **MAKE RECOMMENDATIONS** to the Cabinet Member for Integrated Children's Services on the proposed decision (attached as Appendix One) to:

- a) **AGREE** to directly award a new contract, under the same terms and conditions to Clearsprings Ready Homes from 1 April 2023 to 31 March 2024 for Shared Accommodation services.
- b) **AGREE** to directly award a new contract under the same terms and conditions to Look Ahead Care and Support, Sanctuary and YMCA Thames Gateway from 1 April 2023 to 31 March 2024 for the Young Person's Supported Accommodation and Floating Support (YPSAFS) services, on a reducing scale.
- c) **AGREE** to procure new Supported Accommodation Services effective 1 October 2023 for a minimum of four years with potential further extensions of up to four years.

14 Background Documents

14.1 Included as Footnotes

15 Contact details

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