

From: **Sue Chandler, Cabinet Member for Integrated Children's Services**

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To: **Children, Young People and Education Cabinet Committee – 17 January 2023**

Subject: **Regional Residential Procurement Project: “DfE Phase 2”**

Classification: Unrestricted

Past Pathway of report: N/A

Future Pathway of report: N/A

Electoral Division: All

Summary:

This report provides the Children, Young People and Education Cabinet Committee with an update on the progress of the project led by the Southeast Sector Led Improvement Programme, funded by the Department for Education, for innovation in service provision for Looked After Children with complex lives.

Kent County Council, West Sussex County Council, Portsmouth City Council and Southampton City Council have together progressed the project and commenced the procurement, as agreed under Key Decision 21/00094.

The discussion at the Children, Young People and Education Cabinet Committee in November 2021 raised concern on the length of the proposed contract, which will be three years with an up-to two-year extension for Kent County Council.

Recommendation(s):

The Children, Young People and Education Cabinet Committee is asked to **NOTE** the report.

1. Introduction

1.1 The Children, Young People and Education Cabinet Committee received a report on 16 November 2021 detailing the Regional Residential Procurement Project led by the Southeast Led Sector Improvement Programme (SESLIP). A Key Decision was taken on 3 December 2021. [Record of Decision \(kent.gov.uk\)](https://www.kent.gov.uk/record-of-decision)

- 1.2 Progress has been made with the Project. West Sussex County Council is the lead Authority for the Procurement and is using the Light Touch Regime to design the approach which includes issuing the Invitation to Tender, receiving the responses, feeding back if required, awaiting resubmission of answer, evaluation by a panel of all Local Authorities, Moderation and Contract Award.

2. The Project

- 2.1 The Department for Education (DfE) Project "Phase 2" is funded by the Department for Education as part of its "Improving Sufficiency Planning to Increase Stability and Permanence for Looked after Children" Programme.

- 2.2 This aim of this Project was to develop a procurement approach and pack for new and innovative provision for looked after children with a particular focus on the following key elements:

- Flexible, creative provision designed to meet the needs of complex children, including options to 'step across' various forms of provision (e.g. residential to fostering)
- Keeping children local, as close to their home address as possible
- Working with providers who already offer both residential and fostering services and with small providers, developing joined up partnerships, enabling movement between each as appropriate to need
- Exploring options for considering lifetime costs for placements, the potential to invest in more intensive early interventions, with a view to improving outcomes and potentially reducing longer term costs
- Including measures of progress for children placed based on assessment at the point of placement (regularly reviewed up until placement end using an evidence-based assessment tool)
- The model will be developed collaboratively between local authorities and providers, finding innovative and creative ways to procure, drawing on relationship commissioning models. It will focus on the competitive advantage to be leveraged by working together, developing better ways to support children and young people.

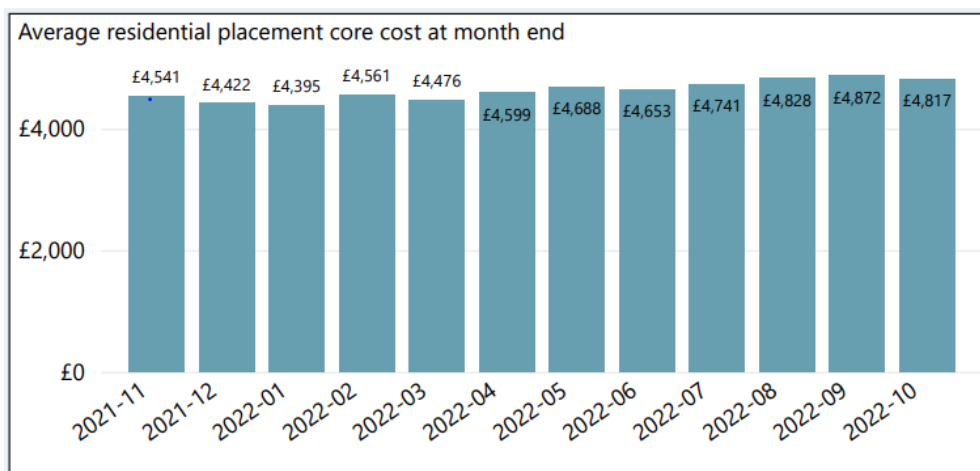
- 2.3 Since last year, Southampton City Council has joined the Project. The Procurement documentation has been developed and continued promotion of the Project has taken place ensuring Providers are aware of the opportunity.

- 2.4 To date, the Project Team has:

- Engaged with young people to talk about the issues with placements and what they would want to see from a new model
- Engaged with providers through formal market engagement to seek ideas to how our issues could be resolved
- Engaged with the national forums for Fostering and Residential
- Developed a procurement pack and entered the tender period.

3. The Kent Position

- 3.1 Kent County Council agreed with the other two local authorities in the profile of children and young people it is most difficult to place and have one or more of the following capabilities:
- Aged between 10 and 16, although needs to include some flexibility
 - 70:30 male: female
 - Have often experienced exploitation, usually criminal, sometimes sexual
 - Have long histories of neglect and exposure to domestic abuse and other forms of childhood trauma
 - Sometimes will need to be placed in an emergency
- 3.2 Within the Kent boundary, there are now 83 residential children’s homes with a total of 374 beds. Kent has 51 children placed in Kent (excluding those under the Disabled Children’s Teams) as at 30 October 2022. The placements in Kent against the overall capacity shows that KCC occupies 14% (up from 12% in September 2021). This still does not allow KCC to have any leverage within the market and as a result relies on local relationships between the homes and the Total Placement Service. There are a further 35 children (excluding those under the Disabled Children’s Teams) placed in residential children’s homes outside of Kent.
- 3.3 The 2020/2021 out-turn position on residential children’s home placements was £19.5m (including the Autism service that subsequently moved to Disabled Children and Young People, with an estimated £2.4m spend), with the out-turn position for 2021/2022 at £18.2m (comparison estimated at £20.6m). The average weekly fees for all placements (excluding those under the Disabled Children’s Teams) can be seen in the table below. This shows accommodation only costs where placements are current at month end. Some children may have additional costs in addition to these costs for a fixed period of time. It is not possible to provide an average of the additional costs.



- 3.4 There has to be a significant action with this market to influence positive change. Working with the other local authorities in this project is hoped to attract providers that are willing and able to signal to other providers the expectations from local authorities for these complex adolescents that challenge placements. This project is supported by the Directors of Children’s

Services to be a national leader in changing the landscape and reshaping local relationships.

3.5 The requirements for KCC are as follows:

	12 months (or less)	18 months (or less)	Total at 18 months	By 24 Months	Total at 24 months
Kent	4	4	8	12	12

Location: The facility will need to be within the County Boundary of Kent County Council with good transport links. Close to a secondary school would be desirable.

4. The procurement and contract

4.1 The Council has entered into an inter-authority partnership agreement with West Sussex County Council, Portsmouth City Council and Southampton City Council, governing the roles and responsibilities of the parties in relation to the procurement of the project and the management of the subsequent contract. The partnership will work together to commission residential services for children with complex needs within the Southeast.

4.2 Contracts will be block in nature (i.e. purchasing a defined number of places for a set time period) and will be for a period of 10 years. There will be a local variation to the Kent contract for three years with two individual one year extensions. The total estimated value of the Kent contract is between £16m and £31m, with a midpoint average of £23m. It should be noted that this is based on cost data for a cohort of children that the Council already has a statutory duty to accommodate, and who are currently placed through a broad range of arrangements (e.g. external Children's Home providers, unregistered placements etc.). This is therefore not new, additional expenditure that is proposed, but rather a more effective way of working within existing budgets to ensure that the most vulnerable children receive the care that they need. The exact value of the

4.3 The contracts will operate with a lotting system with each local authority's places being the subject of a separate lot. Local authorities will contract separately with the provider to whom they award the contract for their lot. The contracts will also include the ability for each local authority within the partnership to transfer any voids (i.e. vacant places) to another authority within the partnership if needed, and even to sell vacant beds to authorities outside of the partnership. This partnership approach (termed 'soft block' by the project) will improve the purchasing power of the participating authorities and provide a more flexible and efficient way of collectively managing resources across the region.

4.4 Placements will ideally be within small homes of between two to four places in size, as best suits this cohort of children. The total number of placements that each local authority is seeking is as follows (although contracts will include the facility for this number to be flexed on agreement between the contracting authority and the provider). Bids will only be accepted from providers for all of

the places in an authority's lot (although bids will also be accepted from consortia of providers, and a provider may bid for more than one lot). The total requirement of provision is 47 beds. This includes the 12 for Kent, 20 for West Sussex, 10 for Portsmouth and five for Southampton:

- 4.5 The expectation is that some, if not most, of these placements will come from providers creating additional placements by establishing new homes for children with complex needs, although some may also come from providers repurposing existing provision. This will require the providers to commit to an investment of finance and other resources to create these additional places. The long duration of the contract is therefore essential to provide both the certainty of places for the local authorities involved and to enable the providers to justify this financial commitment.
- 4.6 Reflecting on the feedback from the CYPE Cabinet Committee in November 2021, Members felt that a 10-year contract was too long in length for KCC to enter into contracts for. The contract will allow for a mobilisation period (likely two to three years) from award of contract (planned for early 2023) in order for providers to properly establish and develop services up to full capacity. There will also be an initial 'no termination' element to the contract for the first three years. Thereafter, either party may terminate with 12 months' notice.
- 4.7 The Invitation to Tender is due to be published in January 2023.
- 4.8 The Procurement is led by West Sussex County Council and KCC Officers will actively participate in the process, including the evaluation and ongoing contract management, particularly with local provision.
- 4.9 West Sussex County Council will lead on the inclusion of Children and Young People in the evaluation of tenders.
- 4.10 The cost of commissioning and procuring the contract for KCC is £62,000.

5. Financial Implications

- 5.1 Residential care for children is currently costing Kent County Council on average £4,817 per week (accommodation only), up from £4,557 per week reported in November 2021.
- 5.2 It is expected that by procuring a service that differs from the standard offer of residential care would benefit from the partnership across the local authorities.
- 5.3 The project team acknowledges, following the market engagement, that it could take up to 18 months for a new provision to be ready for operation under the new contract terms, although we would be seeking quicker opportunities. With the amount of registered standard children's home provision in the Kent boundary, providers might want to re-purpose their provision in order to meet the Kent need.

- 5.4 The revenue budget for residential care is reported within the “Looked After Children – Care and Support” key service line. The 2022-23 Financial Monitoring position reported to Cabinet in September, included an overspend of £1.5m on residential care, with a total overspend of £7.8m across Looked After Children placement costs (excluding disability). In addition, just the past two years (comparing the budget between 2019-20 and 2022-23) the overall budget for the placement of Looked After Children (excluding disability) has grown by nearly £12m (20%) whilst the number of children looked after has only grown by around 3.5%. The increase in cost has arisen from predominantly the higher dependency on more expensive placements such as residential care where the total cost in residential care has increased by nearly £5m over the same period, demonstrating the need to explore alternative options.
- 5.5 The project is expected to be delivered within the existing resources of the Local Authority including use of expertise across the Directorate, Commissioning and Finance services. There are no extra project costs expected. The commissioning of a block contract is expected to be funded within the existing budget for residential care subject to annual inflationary increases as set out in the contract, which have traditionally been funded by additional investment made available through the Medium-Term Financial Planning process.
- 5.6 As this is a proof of concept project, delivered in conjunction with the DFE, it is difficult to fully set out the financial implications. It is unclear how the market will react to a block contract however, we are anticipating the average cost of a bed will be more economical than if purchased individually due to the certainty this arrangement will bring to providers. This will need to be offset against any risks of voids (as set out in the risk section below). Therefore, the project will aim at a very minimum to ensure the average cost of bed under this arrangement is not higher than is purchased through the current spot purchasing arrangement, with an aspiration of potential savings up to 10% if a more competitive rate can be achieved. Any savings are more likely to be achieved through avoiding future years above inflation cost increases. A clearer position will be known following the procurement from all four Local Authorities.

6. Risks

- 6.1 The risks and mitigations have been detailed in the table below:

Identified Risk	Mitigation
Unable to fill the placements within the Kent based homes or wider project	Including Medway as a KCC partner will allow additional children for matching purposes as an immediate response, and offering out to the other local authorities should minimise the risk. If all partners are unable to fulfil demand, there will be early termination clauses in the contract, or flexible options to adjust the block at set times. Otherwise, we

	would encourage other local authorities in the South East to join
Unable to secure a block contract with a provider at an affordable rate	This will be closely managed through the tender. There will be clauses outlining that the local authorities reserve the right not to award contracts if the price is unaffordable.
Partners not committing to the principles of the project	A Partnership Agreement is in place between the local authorities, and alliance authorities, with escalation to the Directors of Children's Services
The project cannot be delivered in the time required	The outline procurement will secure a minimum number of beds from the outset, there will need to be a mobilisation period which could take 12-18 months in a new building. Payments will commence when the service is registered and able to accept children. This will be made clear from the outset of the procurement
No response from the market	Soft market testing through the summer of 2021 identified significant appetite from providers to work more closely with local authorities in a different way. The procurement documentation will continue to be co-produced with the Independent Children's Homes Association

7. Legal Implications

- 7.1 KCC is obliged to fulfil its statutory responsibilities regarding residential placements as set out in The Children Act 1989 (Section 22G), the Sufficiency Duty and other regulations and guidance. In summary local authorities are required to take steps which meets the needs of children that the local authority is looking after, and whose circumstances are such that it would be consistent with their welfare for them to be provided with accommodation that is in the local authority's area ("the sufficiency duty"). KCC's own Sufficiency Strategy supports the use of residential care where appropriate, recognising that good placement matching should be paramount in searching for placements.
- 7.2 Due to the approximate value of the new arrangement the Partnership Agreement and Contracts will be reviewed via the Office of the General Counsel.

8. Equalities Implications

- 8.1 An Equalities Impact Assessment (EQIA) screening has been completed and no high negative impacts have been identified. The EQIA will continue to be developed and reviewed as this project progresses.

9. Other Corporate Implications

- 9.1 The statutory requirement for this service lies with the CYPE Directorate however, the process of sourcing placements resides within the Strategic Commissioning Division in Strategic and Corporate Services Directorate.

10. Governance

- 10.1 Local management of the contract will sit jointly between the CYPE Directorate and Strategic Commissioning (Children's) with ownership and accountability from CYPE. The Partnership will manage the regional contract with West Sussex County Council as the lead authority.

11. Data Protection implications

- 11.1 The Data Protection Impact Assessment will be completed alongside the successful provider so the data flow is clear. KCC currently shares information with Residential Children's Homes providers.

12. Conclusions

- 12.1 This will need to deliver a new, innovative partnership approach to break the current way of working with residential children's home providers.
- 12.2 Children's experiences will continue to be heard and the feedback received by Kent's children (link included in Background Documents below) has been shared with partnering authorities. Children value residential care and do not always feel that professionals share that view.
- 12.3 This will need ongoing assurance and commitment from Kent's Legal and Finance departments. KCC has the Finance lead in the project with Procurement and Legal led by West Sussex County Council.

13. Recommendation(s):

The Children, Young People and Education Cabinet Committee is asked to **NOTE** the report.

Background Documents

Decision reports from West Sussex County Council

[Decision - Procurement of residential provision for children with complex needs CYP03 \(22/23\) \(moderngov.co.uk\)](https://www.moderngov.co.uk/2022/12/22/procurement-residential-provision-complex-needs-cyp03-22-23/)

Link to feedback from Children and Young People

<https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fvimeo.com%2F498055987%2F38a044e4c1&data=04%7C01%7CCaroline.Smith%40kent.gov.uk%7C0cf1b9e87ba5473e1f8408d968a03328%7C3253a20dc7354bfea8b73e6ab37f5f90%7C0%7C0%7C637655859519838472%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTTil6lk1haWwiLCJXVCi6Mn0%3D%7C1000&sdata=kc0RALbpSqvlN9vaKZBF0e%2Fs5c8vx3YCx5Xj4qzSbx0%3D&reserved=0>

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