

EXECUTIVE DECISION

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 – 16 January 2024**

Subject: **External Fostering Placements – Re-opening the Kent and Medway Independent Fostering Services Framework Agreement**

Key decision **Overall service value exceeds £1m and affects more than two Electoral Divisions.**

Classification: Unrestricted

Past Pathway of report: N/A

Future Pathway of report: N/A

Electoral Division: All

Summary:

This paper provides an overview on the proposed re-opening of the existing Kent and Medway Independent Fostering Services Framework Agreement to allow new entrants to the market and existing spot providers to join this contract Framework.

Recommendation(s):

The Children, Young People and Education Cabinet Committee is asked to CONSIDER and ENDORSE, or MAKE RECOMMENDATIONS to the Cabinet Member for Integrated Children's Services on the proposed decision to:

- A) Re-open the Kent and Medway Independent Fostering Services Framework Agreement to allow new providers to join from April 2024.
- B) Delegate decisions and necessary actions, including the award and the implementation of any contract extensions and re-openings of the tender allowable within the terms and conditions of the contract, to the Corporate Director for Children, Young People and Education, or other Officer as instructed by the Corporate Director for Children, Young People and Education, in consultation with the Cabinet Member.

1. Introduction

- 1.1 Local Authorities, as part of their Sufficiency Duty, must take steps to secure, as far as reasonably practicable, sufficient accommodation within its areas to meet the needs of children they are looking after. The proposed decision directly relates to this duty by aiming to provide a greater sufficiency of foster care

placements which meet demand and the needs of the children and young people and helps support social workers in matching the requirements to providers and foster carers.

- 1.2 The Council has a comprehensive in-house fostering service. However, there are times when the needs of individual children cannot be met by the foster carers that are available. This means we search externally for approximately 35% of our fostering placement needs in order to meet our sufficiency requirements.
- 1.3 The Council has a long-standing contractual relationship with Independent Fostering Providers which assists in meeting our Sufficiency Duty and achieve the required outcomes for each child and young person.

2. Current Arrangements

- 2.1 In September 2021, the CYPE Cabinet Committee received a report giving the background and rationale for tendering for a new Framework Agreement for Independent Fostering Providers, jointly with Medway Council, from April 2022. The recommendation was endorsed and following an open competitive tender process the contract went live, as planned, on 1 April 2022.
- 2.2 Following evaluation of the tender submissions, a total of 41 providers met the required standards and became party to the Kent and Medway Framework Agreement.
- 2.3 The Framework is well utilised with the demand for the placement types, categories of need and age ranges closely matching expectations. Further information on the utilisation of the Framework Agreement is contained within Appendix A.

3. Re-opening the Framework Agreement for New Suppliers

- 3.1 Within the original published tender documents, the Invitation To Tender specified the following:

“The Council(s) may exercise their flexibility to periodically “open” this flexible framework for providers to submit applications to join. Suppliers need to note that the Council(s) who have complete discretion, may add in new suppliers into the Framework at every second anniversary of the Commencement Date or any other date it may decide.”

- 3.2 Following the publication of the tender, there were a few regular providers who missed the closing date for sending in their submissions, meaning they reverted to being spot providers since April 2022.
- 3.3 Within the last 18 months the market saw a small expansion of Ofsted registered providers in Kent.
- 3.4 The flexibility to re-open the Kent and Medway IFP Framework Agreement gives the Councils an opportunity to encourage new entrants to the market and those who previously missed the tender deadline to work in partnership to meet

the needs and outcomes of children and young people in our care and to meet our Sufficiency Duty.

3.5 Nationally, local authorities have recently experienced a lack of response to their tenders from IFPs, with a number of these organisations choosing to work on a spot purchase basis only. To mitigate the risk of the Council encountering this and potentially seeing an increase in our spot purchased provision, we have encouraged their participation by highlighting the benefits to their organisation which if they continued as a spot provider they would not experience. Specifically:

- Ongoing commitment and investment in maintaining strong relationships and partnership working to problem solve which supports placement choice and stability. Working in partnership with the Fostering Network and National Association of Fostering Providers to understand emerging issues and trends. Regularly attending the Kent Fostering Network Forum to share information in regard to sufficiency and future commissioning plans.
- Clear process and agreed measures to determine fee uplifts for placements sourced through the Framework which is not applicable to spot purchased placements.
- Access to further commissioning opportunities for fostering services sourced only via Framework providers.

3.6 The risks and benefits of reopening this contractual arrangement are:

Risks	Benefits
<ul style="list-style-type: none"> • Likely to still require some spot purchasing. • Providers may choose not to tender and prefer spot contract arrangements where they determine the costs depending on demand in their service (based on a business decision rather than needs of the child) however this risk could be partially offset by clearly stating the price review process during the course of the agreement. • If a provider wanted to offer a lower price than they originally tendered provided it was stipulated in the terms and conditions, we could accept a lower price. However, there is less incentive for a provider to do this as they are holding the risk by offering a fixed price across placement types. Providers will take a view on seeking a higher margin on some placements to offset lower margins on others. 	<ul style="list-style-type: none"> • Clear pricing mechanisms - Agreeing prices at the tender stage for a period time gives certainty to the market. • Meets Public Contract Regulations requirements. • Able to link and control annual price increases to KCC budget planning processes. • Strong contract management arrangements in place to ensure service is delivered in accordance with agreed performance and quality levels. • Easier to maintain and develop supplier relationships for an open and constructive relationship. Most local providers like having a strong relationship with their host authority. • Providers are used to working with Framework Agreements. • The existing contractual arrangements have worked well, commissioning intentions have been met and risks well managed. • There is an appetite and willingness

	<p>within the local market to work with both Kent and Medway in some form of joint contractual arrangement other than spot contracts. Potential to target activity to source carers for hard-to-place children by developing partnerships/collaboration across the county .</p> <ul style="list-style-type: none"> • Fixed prices are positive from a purchasing perspective as otherwise they could spend considerable time on pricing negotiations, some of which may be unrealistic. • Decrease in the need to use spot purchased IFA placements.
--	--

3.7 Following a review of learning gained, the placement types and categories of need were re-shaped for the last tender, and these will remain unchanged if we re-open this opportunity for new entrants. KCC received considerable positive recognition regarding the procurement and evaluation process applied when letting the current contract and it is recommended the same process will be implemented to maintain equity.

3.8 Discussions were held with Medway Council, and it is their wish for the Framework Agreement to be re-opened to allow additional providers and new entrants to the market to join.

3.9 It is recommended the Kent and Medway Fostering Framework Agreement is re-opened to allow new Independent Fostering Providers to join effective from 1 April 2024. Contract term and any extensions will dovetail with those previously issued.

3.10 Implementing this recommendation will not impact on any children already in settled placements. All existing Individual Placement Agreements will continue to run and will suffice to ensure no disruption to the agreed placement.

4. Framing Kent’s Future – Our Council Strategy 2022-2026

4.1 Priority 4 – New Models of Care and Support

4.2 The recommendations within this report support the Council’s commitments:-

- To support the most vulnerable children and families in our county, ensuring our social work practice supports manageable caseloads, reflective learning, joined up safeguarding and effective corporate parenting arrangements.
- To reshape our commissioning practice to ensure we build strategic partnerships with our providers, through earlier engagement, more consistent and proactive commissioning practice, and a stronger focus on co-designing services.

- 4.3 From an operational perspective this means we will protect vulnerable children and families from harm, act as a good Corporate Parent and work with commissioned providers to ensure sufficiency of fostering placements.
- 4.4 The recommendations and decisions sought in this report also support the requirements for service transformation identified in Securing Kent's Future:
- 4.5 Objective 2: Delivering savings from identified opportunity areas to set a sustainable 2024/25 budget and MTFP.
- 4.6 CYPE placement strategies: Work to assess the opportunities that exist around sufficiency strategy, ensuring the right mix of placements and working towards bringing placement costs down. Although it is recognised that market and placement costs in Kent are impacted by UAS children and other factors beyond the Council's control.

5. Financial Implications

- 5.1 The majority of the funding for external fostering placements is in existing revenue budgets within Integrated Children's Services (ICS), with some in the Disabled Children and Young People Service (DCYPS). Furthermore, there are placements which are paid for under the grant conditions agreed with the Home Office for Unaccompanied Asylum-Seeking Children.
- 5.2 The following table shows the expenditure from 1 April 2022 to 31 March 2023 on externally purchased foster care placements sourced through the Framework Agreement and via spot purchase.

IFP Spend (Framework & Spot including legacy placements)	Financial Year 2022/2023
Citizen Children	£16,017,413
Unaccompanied Asylum-Seeking Children	£4,181,644
TOTAL	£20,199,057

- 5.3 Other local authorities do place a significant number of children in care in Kent with the independent sector. They often pay more (particularly the London Boroughs) and are limiting the remaining capacity for Kent's children.
- 5.4 All price review processes were agreed with Finance and are embedded within the terms and conditions of the contract. The Consumer Price Index (CPI) is used as the indicator for price increases with some recognition of the impact of National Living Wage increases for younger staff working in the IFP's. These increases are in line with other price reviews on all services within KCC and nationally are funded from Pay and Price Pressure monies.

6. Legal Implications

- 6.1 KCC is obliged to fulfil its statutory responsibilities regarding fostering as set out in The Children Act 1989 (Section 22G), the Sufficiency Duty and other regulations and guidance such as the National Minimum Standards for Fostering Services. In summary, local authorities are required to take steps which meet the needs of children the local authority is looking after, and whose

circumstances are such 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 Sufficiency Strategy supports the use of KCC foster care prior to accessing placements through IFPs, recognising good placement matching should be paramount in searching for placements.

- 6.2 The terms and conditions of the existing contract were reviewed by Legal Services before they were published as part of the tender process. Additional clauses were written by Legal Services and added to the terms and conditions which state the Council has complete discretion to add in new suppliers into the Framework at every second anniversary of the commencement date or other date it may decide.
- 6.3 Due to the approximate value of the Kent and Medway Independent Fostering Services Framework Agreement, all contracts issued to suppliers require Sealing by our Legal Services in line with the Council requirements.

7. Equalities Implications

- 7.1 An Equalities Impact Assessment (EQIA) screening was completed as part of the governance requirements when the tender was first published with no high negative impacts identified. The EQIA will continue to be developed and reviewed as this project progresses.

8. Governance

- 8.1 The accountability of this service sits within the Children, Young People and Education Directorate. The responsibility sits within the Integrated Children's Services Division.

9. Conclusions

- 9.1 Sourcing external fostering placements through a Framework Agreement meets the Public Contract Regulations (2015). It provides the Council with the ability to call off a range of placement types and sets a clear pricing structure which can be linked to the Council's annual budget planning processes.
- 9.2 Re-opening the Framework Agreement provides an opportunity to encourage new entrants to the market to have a closer working partnership with the Council and mitigates greater use of spot purchase provision.

Recommendation(s):

The Children, Young People and Education Cabinet Committee is asked to CONSIDER and ENDORSE, or MAKE RECOMMENDATIONS to the Cabinet Member for Integrated Children's Services on the proposed decision to:

- A) Re-open the Kent and Medway Independent Fostering Services Framework Agreement to allow new providers to join from April 2024.

B) Delegate decisions and necessary actions, including the award and the implementation of any contract extensions and re-openings of the tender allowable within the terms and conditions of the contract, to the Corporate Director for Children, Young People and Education or other Officer as instructed by the Corporate Director for Children, Young People and Education, in consultation with the Cabinet Member.

Background Documents:

[Decision - 21/00077 - External Fostering Placements Commissioning Strategy \(kent.gov.uk\)](#)

Contact details:

Report Author(s):

Name and Job title: Christy Holden, Head of Children's Commissioning

Phone number: 03000 415356

E-mail: Christy.Holden@kent.gov.uk

Name and Job title: Madeline Bishop, Commissioner

Phone Number: 03000 415852

E-mail: madeline.bishop@kent.gov.uk

Relevant Director(s):

Name and Job title: Kevin Kasaven, Director of Children's Countywide Services

Phone number: 03000 416334

E-mail: Kevin.Kasaven@kent.gov.uk