

Decision maker:	Cabinet member young people and children's wellbeing
Decision date:	Tuesday 5 September 2017
Title of report:	Regional Joint Commissioning, Supported Accommodation Framework for 16/17 year olds
Report by:	Commissioning officer

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

All wards

Purpose and summary

To seek approval to enter into a partnership with other West Midlands councils with Staffordshire County Council acting as lead procurement council, to establish a framework for supported accommodation provider agencies. The framework will provide a list of approved providers and rates for supported accommodation services to be used when 16/17 year olds are accepted as homeless and treated as being in care under section 20 of the Children Act. The report also proposes to authorise officers to enter into contractual arrangements with successful providers in line with the framework terms, should it be deemed appropriate to do so.

The framework will not commit the council to any expenditure unless a young person is placed with an agency. The council will utilise the framework on a tiered basis with the most effective

providers (in terms of cost and quality) being approached first. However, it allows the council certainty in terms of clearly identified fees obtained through a competitive tender process.

Whilst this seeks to reduce the overall cost of supported accommodation care to the council from independent agencies, the council will reserve the right not to accept or enter into contractual arrangements with any individual or all providers.

Approval will ensure that Herefordshire can continue to achieve good value and quality when placing looked after children with independent residential children's home providers; and will support and address elements of the council's commissioning and sufficiency strategy for young people over the age of 16.

Recommendation(s)

That:

- (a) Herefordshire Council join the West Midlands Councils Framework for supported accommodation provider agencies, terminating no later than 8 January 2021; and**
- (b) the director for children's wellbeing be authorised to take all operational decisions necessary to maintain Herefordshire Council's participation in the framework having regard to the favourability of the fees, terms and conditions established by the framework and provider performance.**

Alternative options

1. Do nothing. A framework for providers came to an end in December 2016 since when Herefordshire Council has been undertaking spot purchases as and when required. Due to the very small number of placements currently made by the council this arrangement does not bring any cost certainty or control and may not even be commercially viable to a provider, if they were to set up a provision within the county.

Key considerations

2. The ruling in the case of G vs Southwark (see legal implications section) has meant that 16/17 year olds who are accepted as homeless must be treated as being in care under section 20 of the Children Act. This means the council has a duty to secure appropriate accommodation for this cohort.
3. Securing sufficient 16+ accommodation has been a growing pressure in recent years. There is currently a case load of around 200 young people and out of these, on average around 45-50 young people are looked after, so are in need of a placement. Some will be able to remain in their existing fostering placement under the council's 'Staying Put' arrangements, but some cases, a supported living placement will be more suitable to help them develop their independent living skills as they transition to adulthood.
4. Herefordshire's looked after children and complex needs placements commissioning and sufficiency strategy was approved by the Cabinet member young people and children's wellbeing in October 2014. One of the four priorities of the strategy is to *improve the quality and availability of local supported living arrangements for looked after children aged 16+*.

5. The Children Act 1989 seeks to improve outcomes for looked after children and young people by requiring councils to take steps that secure, so far as reasonably practicable, sufficient accommodation within the council's area which meets the needs of the children they are looking after and whose circumstances are such that it would be consistent with their welfare for them to be provided with accommodation within that area ('the sufficiency duty'). The sufficiency duty requires councils to do more than simply ensure that the accommodation is 'sufficient' in terms of the number of beds provided. They must have regard to the benefits of securing a range of accommodation through a number of providers. As with most social care services, it is not a case of 'one size fits all'. In Herefordshire, the range of supported living services for looked after children, which is an unregulated sector (ie not regulated by Ofsted, CQC or equivalent statutory regulatory agencies), includes:
- **Local supported lodgings** provided by the council's in-house fostering service and an external organisation. Supported lodgings provide young people with semi-independent accommodation, usually in a family home or annexe, with support provided by the 'host' family. Supported lodgings are outside the scope of the regional procurement approach.
 - **Local supported accommodation** foyers provided by a local housing association under a block contract for 16-25 year olds, led by the council's adults and wellbeing directorate. While foyers are not targeted at looked after children, they can provide suitable accommodation and deliver good outcomes for some young people. As there is an existing block contract in place, this service will be outside the scope of the regional approach, however the provider is entitled to submit a regional tender if it wishes.
 - **Regional supported accommodation** provided by independent sector organisations through a framework agreement led by Staffordshire County Council since 2012. Accommodation can be provided within Herefordshire or across the region subject to the needs of the young person and availability.
 - **Supported tenancies** – independent accommodation provided by a local housing association with additional support provided by the council's 16+ team.

This framework will cover bullet point 3 on this list (regional supported accommodation) and supersede the 2012 framework.

6. A tender exercise led by Staffordshire County Council on behalf of the West Midlands region has been undertaken in order to secure a compliant framework and Herefordshire Council is listed as an interested party (who may wish to utilise the framework) in line with Official Journal of the European Union (OJEU) requirements.
7. The West Midlands framework commenced on 9 January 2017 and will terminate on 8 January 2019. There is however an option to extend this tender by up to two years at the council's discretion.
8. Herefordshire was party to the previous sub regional supported accommodation framework administered by Staffordshire, which was implemented in 2012. This has now expired and been replaced by this new framework. Herefordshire usually has fewer than five active placements via the current framework at any one time, with costs ranging from £680 to £2,750 per week depending on the level of support required for each young person. This is due to a restricted pool of providers willing to deliver services in the county and a variable track record of those providers in terms of a consistent quality of service. The new framework agreement on a regional level will seek to provide further

options for the placement of looked after children aged 16/17 years old, when there is either limited local availability or it is in the best interests of the young person to be accommodated elsewhere.

9. Subject to their own internal governance arrangements, each council will enter into an overarching framework contract, via Staffordshire County Council (acting as lead procuring and contracting authority), with the successful providers.
10. Provider organisations who have been accepted onto the framework are not guaranteed placements, but will have the opportunity to accept individually purchased placements from individual councils. These will be on the terms and conditions specified by the regional framework agreement. The service specification will be tailored to individual need in an individual placement agreement, which will be administered by the relevant placing council.
11. In addition to placements, the framework allows for support services for young people to be purchased independently of any accommodation. This will enable support services for young people (including unaccompanied asylum seeking children) to be delivered whilst occupying shared accommodation sourced by Herefordshire Council.
12. Existing placement fees will not increase and may actually decrease. Where the council already has active placements with a provider in the new framework, the placement will transfer to the new framework price if it is lower than previously agreed, otherwise the previously agreed price will continue to apply. Currently there are 5 placements that could transfer to the framework contract arrangements. Based on these placements, which it must be acknowledged 2 of which are on high support packages, it is anticipated a weekly saving in the region of £200 may be achieved.
13. The councils are part of the West Midlands Child Care Partnership, which consists of 14 local councils. The partnership manages and operates a service provider database and referral system. The councils will also source spot purchase placements (when the framework is unable to meet the needs of specific individuals) to service providers approved and registered on this system.

Community impact

14. This development supports the principles outlined in the council's corporate plan, Children and Young People's Partnership plan and Health and Wellbeing Strategy, including:
15. Enabling residents to be independent and lead fulfilling lives by improving outcomes for children and young people. Herefordshire's overarching vision for looked after children and those with complex needs is the same as for all of Herefordshire's children and young people – ***that we keep them safe and give them a great start in life.*** The framework supports this vision by ensuring a supply of providers and settings to support young people through their transition to becoming adults.
16. 'Thinking family' by promoting placement stability within family environments and accommodating more looked after children within Herefordshire to help maintain contact with their own family and social networks, if it is in their best interests to do so. The framework will give the council a source of a range of providers who are able to deliver services locally, regionally or nationally to meet the needs of Herefordshire young people.

17. Making best use of the resources available in order to meet the council's priorities.
18. Successful providers will include locally, regionally and nationally based agencies. However, in line with the council's sufficiency duty, placements for individuals will normally be sought with providers offering settings in Herefordshire, unless it is in the best interests of the young person to be placed elsewhere. The participating councils will work with the provider network to help understand any gaps in local provision so that additional capacity can be developed if necessary. This approach will help ensure that, where appropriate, young people are able to remain in their local community.

Equality duty

19. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
20. The council is subject to a sufficiency duty, which requires it to ensure, as far as reasonably practical, that there is sufficient accommodation and choice to meet the needs of young people aged 16 to 18 years old. In order to meet this duty, due consideration must be given to issues of equality. The supported accommodation framework agreement and the wider sufficiency strategy are informed by an analysis of the needs of the relevant population. In addition, before any young person is placed into accommodation, an assessment of the individual's needs is undertaken so that any specific equality issues can be identified. The individual needs assessment informs the placement choice to ensure the best option is chosen to meet the young person's needs.
 21. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation.
 22. Where a decision is likely to result in detrimental impact on any group with a protected characteristic, it must be justified objectively. This means that attempts to mitigate the harm need to be explored. If the harm cannot be avoided, the decision maker must balance this detrimental impact against the strength of legitimate public need to pursue the service change.

Resource implications

23. There is no negative financial impact. However, the framework agreement will enable the council to manage ongoing placement costs.
24. Overall estimated costs of £611k were incurred from 2014 to March 2017 for purchases

of supported accommodation made by the council's agency placements team from the independent sector, not all of which would be with providers on the old framework agreement.

25. No financial commitment is made to purchase placements from successful tenderers. Placements will be purchased from preferred providers on an individual case by case basis. Therefore, depending on the council's level of demand for placements, the amount of spend can vary.
26. The tender opportunity seeks to simplify contract and placement administration as well as incentivise high quality placements with favourable placement costs achieved.

Legal implications

27. Section 22G of the Children Act 1989 seeks to "improve outcomes for looked after children and young people by requiring local authorities to take steps that secure, so far as reasonably practicable, sufficient accommodation within the authority's area which meets the needs of children that the local authority are 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')".
28. The sufficiency duty requires local councils to do more than simply ensure that accommodation is 'sufficient' in terms of the number of beds provided. They must have regard to the benefits of securing a range of accommodation through a number of providers.
29. G v Southwark is a significant judgement for all those working with young people who are homeless or at risk of homelessness. The ruling has implications on the support vulnerable young people can expect and from whom. The implications of this are that 16/17 year olds who are accepted as homeless are to be treated as being in care under section 20 of the Children Act.
30. The previous framework agreement expired in December 2016. Contractual clauses within the current framework allow the council to terminate the existing contracts and transfer them to the new framework at any time and with one month's notice. This is to maximise the benefits of the new framework as soon as possible.

Risk management

31. With low numbers of placements being made through this service and Herefordshire's desire to develop alternative in county provision for this type of placement, there is an ongoing risk that providers will not see Herefordshire as a viable area in which to deliver services. This means Herefordshire placements may then end up being out of county.
32. If declined, there is a likely risk that placement costs will increase as a result of limited market control alongside a dominant regional framework.

Consultees

33. The voices of children are collected as part of the placement search process and have helped to inform the service specification.

34. Independent supported accommodation providers have been involved in pre-tender supplier engagement events.

Appendices

35. Appendix A – Equality impact assessment

Background papers

36. None identified