

Title of report: Children's Social Care Out Of Hours Emergency Duty Service

Decision maker: Corporate Director - Children & Young People

Decision date:

Report by: Cabinet member children and families

Corporate Director - Children & Young People

Commissioning Support Officer

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose

To consider and approve the recommendations to extend for a further three years our existing out of hours emergency duty service for children's social care.

Recommendation(s)

That:

- a) to direct award a contract to Worcestershire Children First to deliver Herefordshire's children's social care out of hours emergency duty service for a period of 36 months, at a total contract value for the 3 years of £380,928, from 1 April 2023 up to 31 March 2026.

Alternative options

1. Herefordshire could try to deliver the function from within its own social care resources. This is not recommended. This would require children's social care to recruit additional social workers and/or change terms and conditions of current children's social workers to enable them to work the unsociable hours required to deliver an out of hours service. As of August 2022, children's social care have 21 full time equivalent (FTE) vacant social worker posts, with a further 19 FTE posts filled with agency staff. Therefore, there is a significant risk of being unable to fill the additional vacancies arising from delivering the service in house. Worcestershire Council Emergency Duty Team service has successfully provided out of hours emergency cover for Herefordshire since April 1998 when the two local authorities became individual authorities and has demonstrated efficient and effective delivery since.
2. Competitive tender of the service to appoint an external provider. This is not recommended. In August 2022, we asked the Children's Services Commissioning and Procurement Group for Local Authority commissioners and procurement professionals how their EDT services are delivered to understand how other authorities deliver their EDTs. Responses received suggest EDT services in other areas have only been externalised as part of wider externalisation of children's social care services therefore, this suggests there is not a market for the EDT service externally.
3. Herefordshire Council could delegate the function (under S101(b) of the Local Government Act 1972) to Worcestershire County Council, in order for Worcestershire County Council to commission Worcestershire Children First to deliver the service under a third party arrangement. This is not recommended. Although this would negate the need for us to commission Worcestershire Children's first directly it is not recommended as it would result in the Council having less control over the service with limited opportunity to shape provision of what is a business critical service.

Key considerations

- 4 Section 17(1) of the Children Act 1989 states that it shall be the general duty of every local authority: to safeguard and promote the welfare of children within their area who are in need. This duty continues during out of office hours and the recommendation to extend the current contract will enable the Council to continue to ensure that it meets its duties and obligations in relation to safeguarding children outside of normal working hours, including overnight, weekends and public holidays.
- 5 The Emergency Duty Service exists to provide an emergency responsive service for children and young people believed to be at risk of significant harm and for whom delay until the next working day would be detrimental to their welfare and safety. The service ensures that they continue to be safeguarded in the immediate term.
- 6 The current EDT service has been delivered by Worcestershire County Council since 1998, when Herefordshire and Worcestershire became individual authorities. In October 2019 Worcester Children Services were outsourced to Worcestershire Children First. Worcestershire Children First is a 'not for profit' company and wholly owned by Worcestershire County Council. It will be operationally independent and have a single focus on children and young people.
- 7 Children and young people are safeguarded by the out of hours service by addressing statutory emergencies that cannot be safely left until the following working day, including:
 - a) Child Protection assessments – S47 of the 1989 Children Act (including strategy discussion/meetings)
 - b) Emergency Child in Need Assessments – S17 of the 1989 Children Act
 - c) Investigation of the need to provide services for a child in need

- d) Investigation of the need to accommodate a child
 - e) Investigation of the need for an emergency protection order
 - f) Emergency assessments under the NHS & Community Care Act 1990
 - g) Request from police for a joint visit
 - h) Coordinate and provide information for SUDIC (Sudden Unexpected Death In Infants And Children)
- 8 Ofsted's 2018 inspection of Herefordshire's children's social care found that 'an effective out-of-hours emergency duty service (EDS) provides timely and appropriate responses to children and families. Information sharing, contact with daytime services and access to the electronic database enables EDT staff to make informed decisions and take any immediate actions to protect or help children'.
 - 9 In 2019, Ofsted undertook an inspection of Worcestershire County Council's services for children in need of help and protection, children looked after and care leavers overall safeguarding arrangements., Ofsted concluded that the authority were required to make improvements in order to meet a 'good' standard however the report was clear that, 'For those families needing help at weekends and overnight, the emergency duty team provides effective responses that are recorded well.'
 - 10 Ofsted's focused visit in January 2019 of Herefordshire's children's social care found that; 'Decision-making following contacts to children's social care, including those made out of hours, is proportionate and results in the timely progression of referrals to statutory services. Decisions to look after children in emergency circumstances are considered and appropriate and the rationale for decision-making is clearly recorded.'
 - 11 In 2022, Ofsted undertook an inspection of Herefordshire Council service for all Childrens service. Ofsted concluded that the authority were inadequate however, the report stated 'timely and proportionate action is taken to respond to children's urgent needs outside of normal office hours'.
 - 12 Herefordshire Council has been satisfied with the quality and responsiveness of the EDT service provided by Worcestershire Childrens First. There are clear operational protocols in place between Herefordshire Council and the EDT and any emerging issues are addressed through regular contract management meetings and quarterly submission of performance data, which will continue to be required under the new contract.

Community impact

- 13 The awarding of the contract for the out of hours service supports Herefordshire's overarching vision for all children and young people – that we keep them safe and give them a great start in life. It will also make the best use of the resources available in order to meet the council's priorities.
- 14 Herefordshire Council Ofsted improvement plan is currently in draft and any actions which will impact on the delivery of this contract will be taken into consideration when writing the service specification for this contract.
- 15 During the period April 2021 to March 2022, the service dealt with an average of 150 contacts with safeguarding cases per month and worked with on average 66 families per month. Most referrals to the service come from care providers (children's homes and fostering agencies), the police, or are anonymous. The most common reasons for contacting the service are to share information/ access advice or report a missing child. Most cases are dealt with through telephone

consultation, and when necessary, the service will arrange for a social worker to undertake an emergency site visit.

Environmental Impact

- 16 The environmental impact of this proposal has been considered through the service specification and includes appropriate requirements on the contractor/delivery partner to minimise waste, reduce energy and carbon emissions and to consider opportunities to enhance biodiversity. This will be managed and reported through the ongoing contract management

Equality duty

- 17 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.

- 18 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 in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation.

- 19 The equality duty covers the following nine groups with protected characteristics: age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The decision does not discontinue services and has no detrimental impact for those eligible to access the service.

- 20 This proposal pays due regard to the public sector equality duty by ensuring that children and young people who are believed to be at significant risk of harm remain safeguarded outside of normal working hours.

- 21 Children and/or their families/carers, who require out of hours services will share a number of the protected characteristics, which are set down in the Equality Act 2010 and towards which public bodies, such as Herefordshire Council, have statutory/legal duty.

- 22 Within the contract, there will be an obligation for Worcestershire Children First to monitor equality and diversity. They must have in place (at all times whilst providing any services and in relation to its activities within the United Kingdom) appropriate policies, procedures and systems to monitor and enforce those procedures, to ensure its compliance with relevant UK law relating

to equalities and anti-discrimination, including the Equality Act 2010.

Resource implications

Revenue budget implications	2023/24	2024/25	2025/26	Total
	£126,976	£126,976	£126,976	£380,928

- 23 Finance have confirmed the budget available for this service is in line with the previous contract £126,976.

Legal implications

- 24 Section 17 of the Children Act 1989 details the provision of services for children in need, their families and others. The Local Authority must ensure the following;

s17(1)It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part)

(a)to safeguard and promote the welfare of children within their area who are in need; and

(b)so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs.

By not providing an effective out of hours service the Local Authority would be in breach of its duties to safeguard children in its area. Due to recruitment difficulties this service is unable to be provided in-house and therefore the proposal that Worcester Childrens First provide the service is the preferred and tested option to provide an essential service.

Risk management

- 25 If the decision is not approved, Herefordshire would not have access to alternative out of hours emergency duty services for children's social care without commercially procuring a service, as outlined in paragraph 2 this is not recommended due to the limited market.
- 26 If the decision is not approved, there is significant reputational and legal risk to the council for not meeting its statutory/legal obligations. There would also be risk to the children and their families/carers who require this service and damage to the council's reputation and strategic relations.
- 27 The contract with Worcestershire Children First incorporates a data sharing agreement. In addition to this, EDT staff who require access to Mosaic as part of their role, will be required to sign a third party agreement with the Council. EDT will also be included in the Multi-Agency

Safeguarding Hub's (MASH) partnership data sharing agreement. MASH is a partnership between the Council's children's social care, police, health, probation, education and Women's Aid. It provides a single point of contact for all safeguarding concerns. It is a confidential unit in which information is shared securely in order to make sure children and young people in Herefordshire are kept safe

Consultees

Appendices

None

Background papers

None

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	John Coleman	Date 07/11/2022
Finance	Louise Devlin	Date 07/11/2022
Legal	Kimberley Gaffey	Date 09/11/2022
Communications	Luenne featherstone	Date 07/11/2022
Equality Duty	Harriett Yellin	Date 09/11/2022
Procurement	Lee Robertson	Date 08/11/2022
Risk	Elizabeth Freedland	Date 09/11/2022
Approved by	Darryl Freeman	Date 15/11/2022

Please include a glossary of terms, abbreviations and acronyms used in this report.