

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

**Decision maker: Corporate Director - Children & Young People**

**Report by:** Commissioning Officer All Age Mental Health

## **Classification**

Open

## **Decision type**

Non-key

## **Wards affected**

(All Wards);

## **Purpose**

To consider and approve the financial amendments of a 3% year on year uplift to the previous decision already approved for the emergency duty service for children social care.

## **Recommendation(s)**

**That:**

- a) Financial amendment of a 3% uplift is applied to the contract for a further 3 years at a total additional cost of £23,316;**
- b) Further amendment to be approved by the Corporate Director of Children and Families in line with Corporate Scheme of Delegation.**

## **Alternative options**

1. Herefordshire Council 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 Emergency Duty Team (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. 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. 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.

### **Community impact**

5. 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.

### **Environmental Impact**

6. 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**

7. 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.
8. 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. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.
  9. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine ‘protected characteristics’ (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have ‘due regard’ to the public sector equality duty when taking any decisions on service changes.

## Resource implications

10. Finance have confirmed the additional inflationary uplift for this service is available for this contract.

Revenue budget implications	2023/24	2024/25	2025/26
Contract value previously approved	£126,976	£126,976	£126,976
3% uplift	£3,809	£3,924	£4,041
Total new contract value	£130,785	£134,709	£138,750

## Legal implications

11. 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.
12. By not providing the uplift as recommended in this report, we would not be able to provide an effective out of hours service and the Local Authority would therefore 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 continue to provide the service, with the recommended uplift, is the preferred and tested option to provide an essential service.

## Risk management

13. 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.
14. 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.

## Consultees

### Appendices

None

### Background papers

Previous decision referenced throughout this document;

<http://councillors.herefordshire.gov.uk/mglIssueHistoryHome.aspx?IId=50043458>

## Report Reviewers Used for appraising this report:

Governance	John Coleman	Date 01/02/2023
Finance	Ruth Griffiths	Date 06/02/2023
Legal	Tess Burgess	Date 13/02/2023
Communications	Luenne featherstone	Date 23/01/2023
Equality Duty	Harriett Yellin	Date 01/02/2023
Procurement	Lee Robertson	Date 24/01/2023
Risk	Elizabeth Freedland	Date 02/02/2023

Approved by	Darryl Freeman	Date 14/02/2023
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