

## PLYMOUTH CITY COUNCIL

**Subject:** Peninsula Residential Children's Homes placements tender – contract award report

**Committee:** Cabinet

**Date:** 11<sup>th</sup> December 2018

**Cabinet Member:** Councillor McDonald

**CMT Member:** Carole Burgoyne (Strategic Director for People)

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**Ref:**

**Key Decision:** Yes

**Part:** I

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### **Purpose of the report:**

This report relates to the outcome of a far south west Peninsula tender for the provision of residential children's home placements for children and young people in care. These are placements which are purchased from independent sector providers for Plymouth children and young people with more complex needs, who struggle to manage in a family home.

There is no statutory requirement to have a contract in place to purchase these types of placement, but to do so supports local authorities to ensure that providers are contractually committed to providing high quality placements for our most vulnerable children and young people.

Since 2006 Plymouth City Council has collaborated with Cornwall Council, Devon County Council, Torbay Council and Somerset County Council to commission placements from the independent sector. For the purposes of this procurement, Plymouth City Council has worked in partnership with Torbay Council, Devon County Council and Somerset County Council. Cornwall Council is making separate arrangements.

In February 2016 Cabinet approved a business case to re-procure the Peninsula placement contracts, in partnership with Peninsula local authorities, and with Devon County Council as lead procurer. This paper sets out the procurement approach taken for the residential contract within this suite, including the quality and commercial considerations for the tender and in managing the provider market post-procurement as effectively as possible. This agreement will replace the current Peninsula residential framework contract which has been in place since April 2013.

A separate Part II paper is also submitted with information on the tender submissions and the outcome of the tender which contains commercially confidential information.

The key drivers for the tender were:

- Improve the perception of the Peninsula Authorities as an attractive customer and an area in which to invest in developing provision;

- Improve local sufficiency;
- Achieve transparency of price and encourage a discounted price for local placements;
- Refresh the specification and contract terms and conditions to bring them up to date with current requirements;
- Quality assure children’s homes which are used on an ad hoc basis outside the Peninsula, with the overall aim of significantly reducing the use of these out of area providers and placements longer term;
- Set out an aspiration to work more closely with Peninsula providers to drive up the quality of care.

The current contractual arrangement expires on 31<sup>st</sup> January 2019. This Contract Award report recommends the award of new framework agreements to begin on 1<sup>st</sup> February 2019 for an initial period of 26 months (1<sup>st</sup> February 2019-31<sup>st</sup> March 2021), with an option to extend for a further 22 months (1<sup>st</sup> April 2021-31<sup>st</sup> January 2023).

The current anticipated annual spend across all four Peninsula authorities during the four year period of the contract is anticipated to be £122 million. Annual spend on residential placements by Plymouth City Council was £6.5 million for 2017/18; this represents a significant proportion of the budget for placements for children in care.

Plymouth City Council already has in place a contract for the provision of local children’s residential homes; the Caring in Partnership block contract, which began on 1<sup>st</sup> March 2018. The Peninsula contractual arrangements provide additional placement options for Plymouth children, for those placements not covered by the block contract or where children and young people need to be placed further away from Plymouth.

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### **The Corporate Plan 2016-2019:**

The tender process aligned with the Corporate Plan as follows:

Our Priorities	How the tender aligned with the Corporate Plan
A Caring Council	<p>The tender aims to ensure that children and young people in residential care are protected and kept safe from harm, to be able to progress and achieve positive outcomes. This will be achieved through the provision of good quality care for children and young people, provided in a homely environment by suitably skilled staff.</p> <p>The tender also aims to reduce health inequalities for children and young people in care through ensuring they have access to all required health services, and are supported by staff able to recognise any past trauma and respond appropriately.</p>

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### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land**

This Contract Award report relates to existing spend that will be set against the proposed budgets for independent sector placements for 2019/20 and beyond. The financial impact of the tender is set out in the Part II report.

The Peninsula residential framework agreement is part of a suite of actions aimed to try to manage and contain spending on placements for children and young people in care. The cost of providing residential care has been rising over recent years, particularly with increases in the National Living Wage and more robust training and support requirements for skilled staff able to manage complex needs.

The current Peninsula residential framework has been in place since April 2013 and prices have been held for the last five years as much as possible, with exceptions where providers were able to demonstrate a clear rationale for a price increase. It was therefore anticipated that a procurement of a new framework agreement would see some providers seeking price increases to reflect the cost of providing care. This needed to be balanced against the statutory requirement to have sufficient local placements for children and young people in care and the need to manage the provider market accordingly.

To mitigate against this, bidders were required to provide a full breakdown of their weekly fee, including any profit margin. This will also provide transparency of the hourly rates being paid to staff. The tender also sought to mitigate the impact of any increases in contractual prices by maintaining all existing placements on current weekly fees, so that only new placements made after the start of the new framework agreement being paid at the new rates.

In addition the tender included a new process for consideration of fee increases; under the new contract, weekly fees on the framework are frozen for the first two years of the contract, with a process for consideration of annual fee increases at the end of year two. The Peninsula authorities will control the process of proposing fee increases, by considering the costs of providing care in relation to:

- Any planned increases to the National Living Wage;
- The rate of the Consumer Prices Index (CPI), as compared to the start of the contract year;
- Any unforeseen and significant cost increases, for example regulatory fees;
- Benchmarking against similar local authorities.

The local authorities will then propose an annual % fee increase (or decrease), as a flat rate across the market. The process does not guarantee a price increase.

This process does not prevent providers or local authorities from seeking changes to individual placement fees at any point during the framework agreement, dependent on the needs of a child or young person. In this respect, fees are able to reduce as well as increase.

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### **Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

The contract will have implications for child poverty and community safety by aiming to provide a stable, supported environment for children and young people to experience a safe home where they can progress and achieve.

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### **Equality and Diversity**

Has an Equality Impact Assessment been undertaken? Yes, by Devon County Council on behalf of the Peninsula Authorities

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**Recommendations and Reasons for recommended action:**

It is recommended that a framework agreement (which does not commit the local authority to purchasing placements) is established with the residential providers listed in the Part II Report. The financial impact of the tender is set out in the Part II report.

**Alternative options considered and rejected:****Two possible alternative courses of action were considered and rejected:****Revert to market rates:**

The current contractual arrangements are due to expire on 31<sup>st</sup> January 2019. Any further extensions to the existing framework would need to be through exemption. If the framework agreement was not tendered, individual placement prices for new placements would revert to spot purchase prices charged nationally, which are likely to be higher than currently paid, unless negotiated on an individual basis by commissioners. This would require additional staffing to support children's placement brokerage to enable all prices to be individually negotiated. Given the current high demand for residential placements nationally, it is not certain that providers would be in agreement to reduce their rates on a placement by placement basis.

**Tender as individual local authorities:**

Each local authority has the option to tender individually for services of this type. Plymouth has used this flexibility previously to commission a local residential block contract, to better meet the needs of children and young people in the city. However, there remains a need to have access to a range of children's home provision beyond the block contract, including provision at distance from the city for some children with specific needs. Our neighbouring authorities share this need.

Each local authority individually tendering for provision of this type would require duplication of resource to carry out a separate tender process. This would also place an additional burden on residential providers to respond to more than one tender at a time when we are seeking to minimise additional costs for the provider which may be passed onto placing authorities. This approach would also not have taken into account any benefits of the Peninsula Authorities collaborating commercially; with an annual spend of approximately £30 million on residential care across the four Peninsula Authorities, it was determined that the greatest benefit would be gained in shaping the provider market together, continuing a long-standing collaborative partnership.

**Published work / information:**

Not applicable.

**Background papers:**

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	
Equality Impact Assessment	X									
Peninsula Market Position Statement June 2016	X									

**Sign off:**

Fin	djn.18.19.133	Leg	MS/31563	Strat Proc	SA/PSF/487/CP/1118
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Originating SMT Member Craig McArdle, Director of Integrated Commissioning
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Has the Cabinet Member(s) agreed the contents of the report? Yes
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## **INTRODUCTION**

The business case for proceeding with a Peninsula approach was approved by Cabinet in March 2016; work has been ongoing since then to engage with the provider market and devise the most effective approach.

This Contract Award Report is to recommend the outcome of an Open Tender to provide placements to Plymouth City Council and our Peninsula Partners – Devon County Council, Torbay Council and Somerset County Council. The placements in the scope of the procurement were:

- Residential children's homes
- Associated education provision

Residential children's homes are used for children and young people in care with a range of complex needs. Homes offering high quality care with skilled staff are demonstrably able to deliver positive outcomes for vulnerable children and young people.

For Plymouth City Council, residential children's homes are commissioned via two contracts: Caring in Partnership – residential block contract for placements in or near to Plymouth, and the Peninsula Residential Framework agreement.

The recommended providers for the establishment of the framework agreement are set out in the Part II report.

## **BACKGROUND**

The Peninsula Children's Services Partnership residential tender is part of a wider approach to the commissioning and procurement of residential children's homes for children and young people in care.

For Plymouth City Council a block contract is in place (since 1st March 2018) with a number of carefully selected children's home providers, to build on local bed capacity over an initial three year period. At present there are 15 beds on the block contract, in or within 20 miles of Plymouth. However, this isn't yet sufficient to meet the needs of all Plymouth children and young people requiring care in a residential children's home (currently 36). Therefore, additional contractual arrangements are required to ensure the local authority can access residential beds in neighbouring Peninsula local authorities, and for some children, further away due to their specific needs and risks.

The weekly cost of placements in residential care is rising; an average increase of 16.59% for Plymouth children in 2017/18. This is largely due to the impact of the introduction of the National Living Wage, which has also required providers to increase sleep-in fees to be compliant with the legislation. Historically, wages in this sector have been relatively low, often said to be comparable with working in a supermarket. This proves a challenge when seeking to recruit and retain staff with the skills to work with very complex children and young people. Providers are also resisting attempts to reduce fees, other than through other contracting arrangements such as blocks; demand is currently so high that there is little incentive to negotiate.

In order to address these issues the key drivers for the tender were:

- Improve the perception of the Peninsula Authorities as an attractive customer and an area in which to invest in developing provision;
- Improve local sufficiency (statutory requirement);

- Achieve transparency of price and encourage a discounted price for local placements;
- Refresh the specification and contract terms and conditions to bring them up to date with current requirements;
- Quality assure children's homes which are used on an ad hoc basis outside the Peninsula, with the overall aim of significantly reducing the use of these out of area providers and placements longer term;
- Set out aspiration to work more closely with Peninsula providers to drive up the quality of care.

## **2. TENDER EVALUATION METHODOLOGY**

The tender was run as an Open procurement process, by Devon County Council's Procurement team on behalf of the Peninsula. The Tender was advertised as per procurement regulations to all those providers able to deliver the service; Ofsted registered (or equivalent if in Wales) residential children's homes and associated Ofsted and DfE registered education provision.

Workshops were carried out prior to tender launch with providers to co-design the service specification and contract monitoring approach. A post-tender launch event was held on 21<sup>st</sup> September which enabled providers to ask questions about the tender approach. This was attended by 22 residential providers.

An online Supplier Questionnaire was used which asked for financial and technical information.

- Economic and Financial Standing
- Technical and Professional Ability
- Modern Slavery
- Additional Questions
- Insurance
- Skills and Apprentices
- Compliance with Equality Legislation
- Health & Safety
- Information Security
- Carbon Emissions Reporting
- Safeguarding

The tender was divided into three Lots:

- Lot 1 – Devon geographical area made up of Plymouth City Council, Devon County Council and Torbay Council
- Lot 2 – Somerset County Council's administrative area
- Lot 3 – outside the boundary of the Peninsula Partnership

When a placement is needed, Lot's 1 and 2 will be searched first, followed by Lot 3 if local placements aren't available. The current framework agreement covered the geography of the south

west (the former Regional Development Agency footprint), so any providers further away than Gloucester were excluded.

Compliant bids for the tender were received from 28 organisations, offering 855 beds in 217 homes. A number of providers submitted bids for more than one Lot. The table below sets out the geographical spread of the homes.

	Lot 1	Lot 2	Lot 3	All
Providers bid	9	9	21	28
Provisions bid	32	22	163	217
Beds bid	88	69	698	855

Currently there are approximately 86 children’s homes offering placements for emotional and behavioural difficulties, operating in the Lot 1 and Lot 2 geographical areas. 50 of these are on the current Peninsula residential framework contract (58% of the market). Some providers have always chosen to operate on a spot purchase basis, due in part to greater freedom to charge higher weekly fees.

55 homes across lots 1 and 2 have submitted bids to join the new framework, which represents 63% of the market, an improvement on engagement with the current framework. The framework agreement allows for providers to join the framework or for existing providers to add new provision at the end of year two; work with the market needs to be ongoing to encourage providers to work with the Peninsula Authorities. This replicates the current framework agreement, which has allowed new provision to be added during the lifetime of the agreement. This is to support the local authorities in their statutory duty to ensure sufficiency of local placements.

**Procurement process:**

Following successful completion of the Supplier Questionnaire, providers were required to submit the detail of the individual homes they wished to add to the framework. Homes had to be already registered with Ofsted or equivalent and have a current grading of at least Requires Improvement.

For Lots 1 and 2, each provider was required to provide a Development Plan, which will form the basis of contract management. The decision was taken not to require method statement submissions as the providers are all Ofsted registered. In addition the tender sought to drive a more collaborative developmental approach to conversations with providers. The Development Plans include the following sections to cover operational data, qualitative information and commentary on strategic development, which will be reviewed with the Lot 1 and 2 providers every four months to support conversations about the growth of local provision.

Key Performance Indicator	Measure
<b>Placement stability and permanence:</b> Providers ensure that placements admissions are well planned and placements are well supported to remain stable.	<ul style="list-style-type: none"> <li>Number of placements ended due to placement breakdown</li> <li>% of children and young people brought into placements where a compatibility/impact assessment was completed</li> <li>Placement transition completed within identified timescale where applicable</li> <li>Evidence of commitment to working in partnership to improve stability – support packages, and attendance at all placement stability and disruption meetings</li> </ul>
<b>Staffing:</b> Providers ensure that at all times the workforce is able to efficiently respond to the demands of the service and that all employees are of sound nature and good professional character.	<ul style="list-style-type: none"> <li>% of residential staff employed for 2 years or longer</li> <li>Percentage of staff leaving the organisation during the period</li> <li>Number of occasions agency staff used within the organisation</li> <li>Number and % of staff who have received disciplinary warning or dismissal</li> <li>Number of registered managers who have left the organisation or who have transferred Homes</li> <li>% of Homes operating without a Registered Manager, including Homes where there is an acting manager</li> </ul>
<b>Staffing:</b> Providers ensure that staff are well supported and trained to meet the requirements of their role.	<ul style="list-style-type: none"> <li>Regular supervision (at least 6 weekly), clinical supervision where appropriate, and appraisal (annual) of staff members</li> <li>% of staff that hold the required qualification for their role</li> <li>All mandatory (as determined by the specification) training is completed and updated as required</li> </ul>
<b>Safeguarding:</b> Providers demonstrate an excellent understanding of the needs of young people placed and enable them to remain safe.	<ul style="list-style-type: none"> <li>Number of LADO / MASH referrals</li> <li>Number of occasions that the Police have been called to the home</li> <li>Number of occasions that young people have been reported as missing</li> <li>Number of corresponding return home interviews completed</li> <li>Number of CYP who have been absent from education</li> <li>Number of physical interventions</li> </ul>
<b>Health:</b> Providers ensure that children and young people placed are able to maintain good physical and emotional health.	<ul style="list-style-type: none"> <li>Number of unplanned visits to a hospital following accident / injury</li> <li>Number of Peninsula young people currently accessing mental health services</li> <li>Number of Peninsula young people who are not accessing these services where this is a requirement of the Care Plan</li> <li>Number of Peninsula young people currently accessing substance misuse support</li> <li>Number of young people who are not accessing these services where this is a requirement of the Care Plan</li> <li>% of young people who are registered with a Doctor and Dentist within their local area</li> <li>% of young people who are 'regularly' averaging two hours per week engaging in physical activities</li> <li>Number of Care Plans where the outcomes for Health and Wellbeing are not being achieved</li> </ul>
<b>Voice of the Child</b>	The views of children and young people placed are collected using a variety of means and demonstrably used to improve practice in the home
<b>Leadership and management:</b> Registered	Registered Manager receives regular visits (at least once a quarter) and support (weekly) from senior leaders

Manager is appropriately supported and trained	Registered Manager receives training appropriate to managing the home and meeting the needs of CYP placed
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Overarching aim for Development Plan	Key performance indicators
<b>Sufficiency:</b> Detail of plans to develop local provision to enable Peninsula children and young people to be placed as close to home as possible	<p>Providers are actively considering how to improve local sufficiency</p> <p>The care needs of Peninsula children and young people are considered when planning new Homes</p> <p>The geographical needs of Peninsula children and young people are being considered when planning new Homes</p> <p>Providers identify gaps in system support which would enable the growth of new Homes, and flag these to the Peninsula Authorities</p>
<b>Partnership working:</b> Evidence of effective partnership working using a multi-agency approach, to achieve positive outcomes for children and young people	<p>Providers proactively work with placing authorities and key agencies such as Health and Education to ensure that placement stability is achieved for each child and young person placed.</p> <p>Providers proactively work with appropriate services to escalate risk in relation to safeguarding including child exploitation and to work with partner agencies to formulate a risk management plan where required.</p> <p>Providers work proactively in collaboration for step down arrangements with fostering organisations and other appropriate partnership organisations. This includes identifying and highlighting to Peninsula children and young people who are ready to step down, and enabling fostering providers and other appropriate organisations to access the child or young person as agreed with the local authority.</p>
<b>Recruitment of workforce</b>	<p>Providers have plans to attract, recruit and retain staff so that staffing levels show stability</p> <p>Providers have contingency plans for managing staff vacancies</p>
<b>Training and development of workforce</b>	<p>Providers ensure staff are well trained to meet the complex needs of children and young people in their care and flex as those needs change</p> <p>Providers ensure continued professional development for their workforce.</p> <p>Providers use feedback from training to measure if this has improved performance</p>
<b>Leadership and Management: Quality of provision and regulatory performance</b>	<p>An effective home improvement plan is in place to improve the quality of provision and is monitored regularly, to anticipate any issues with performance</p> <p>The Provider references any issues raised by the local authorities during the previous period and provides information on how these have been dealt with.</p>
<b>Ofsted Updates</b>	The Provider monitors Ofsted performance effectively and provides updates on inspection outcomes, feedback and action plans.
<b>Notifiable Incidents / Complaints</b>	The Provider monitors complaints to the Homes and the local authority. Includes information whether complaints are upheld and timescales for response.

Lot 3 providers (out of area) were not required to submit a Development Plan, but will also not have regular meetings with commissioners or be invited to provider forums. This is with the aim of reducing the use of these types of placement over the duration of the contract.

Providers had to submit a pricing schedule for each home they wished to add to the framework. The pricing schedule was designed to offer transparency of the weekly cost of a placement, including key elements such as staffing and support to the child or young person. The pricing schedule was broken down into the following elements:

- Accommodation costs
- Organisational costs
- Child/young person costs
- Staff costs
- Education costs
- Health requirements

In addition, providers submitted an information only schedule of rates for optional additional services which can be purchased at the discretion of the placing local authority, for example to reserve a placement as a solo placement for one child or to allow for therapeutic support if Camhs was not available.

The price element of the bids will be held on record and used for call-off purposes when individual children and young people are placed.

### 3. RISK EVALUATION

The following risks have been considered as part of the tender. The right hand column indicates whether this is still considered a risk for the implementation of the contract.

Risk	Impact/Opportunity	Mitigating actions	Current situation
Lack of bidders	Risk to placement sufficiency and increase in spot purchase	Provider involvement in key tender documents; post tender launch event held	Sufficient number of bids received; work will be ongoing to continue to engage providers who have chosen not to join the framework and encourage them to join at the two year point.
Unsustainable increases in prices	Risk to local authority budgets at a time of significant pressures. Conversely, not allowing any change could discourage a provider market facing increased costs to deliver good quality care	Current placement prices remain on current terms. New placements made on new prices. Prices frozen for the first two years of contract. Mechanism put in place for considering future pricing at the end of year two.	See part two report
Co-ordination of sign off processes	Delay to contract start if sign off processes across the four local authorities cannot be aligned	Dates for local authority signoff have been included in the procurement timetable	All sign offs on track for completion before the end of December

Contract implementation	Sufficient time to be allowed to implement the contract	Minimum implementation is required as current placements are remaining on the same terms and conditions	On track
Commitment of resources to monitor the contract	The contract will be more effective if collaborative and constructive relationships are maintained with providers; this requires time to analyse information, attend meetings and visit provision	The contract focuses on working closely with providers with local provision so that local authority resource is used in the areas where greatest impact is needed.	Shared Peninsula resources to be confirmed via discussions with Peninsula Partnership Board during winter 2018

#### 4. CONTRACTUAL/LEGAL EVALUATION

The framework agreement gives no guarantee of business but sets clear expectations if placements are used.

Devon County Council shall be the lead authority with regards to the Framework Agreement. The contract terms and conditions used are bespoke to this tender and service type and have been approved on behalf of the Peninsula Authorities by Devon County Council's Legal team. The service specifications, Individual Placement Agreement templates and performance management frameworks are also bespoke to this tender to ensure commonality across the Peninsula Authorities and maximise partnership working.

Any Individual Placement Agreements will be individually entered into by the respective local authorities. Spend on Individual Placement Agreements is approved by the Service Director for Children, Young People and Families. A separate contract award decision shall be made in respect of Individual Placement Agreements.

**REPORT ENDS**