

Wiltshire Council

Cabinet

24th March 2020

Subject: Sub-Regional Arrangements for Sourcing Independent Fostering Agency Placements

Cabinet Member: Cllr Pauline Church Cabinet Member for Children, Education and Skills

Key Decision: Key

Executive Summary

This report seeks Cabinet approval to collaborate with 19 other Local Authorities in the South-Central area, for the procurement of Independent Fostering Agency (IFA) placements for looked after children and young people.

Where children and young people are unable to remain safely living with their families, we must have access to enough high-quality foster care placements, as close to Wiltshire communities as possible.

Where an appropriate match cannot be made with a Wiltshire Kinship and Fostering Team foster carer (known as in-house carers), carers are identified through Regional Framework Agreements.

Wiltshire Council currently procures IFA placements through a Framework Agreement competitively awarded in 2017, led by Bath and North East Somerset Council (BANES). This is known as the South-West Framework and includes 7 local authorities (Gloucestershire, South Gloucestershire, BANES, Swindon, Bristol, North Somerset and Wiltshire).

The South-Central Framework is led by Southampton and Bournemouth Councils and currently includes 19 Local Authorities across South-East and South-West England. Both the South-West and South-Central Framework Agreements expire in March 2021 and work will begin on re-tendering each in January 2020.

The South-Central Framework offers access to the same providers at a similar price to the South-West contract. However, the South-Central consortium is more developed, offering higher levels of provider engagement and greater regional capacity for partnership working between Local Authorities.

The South-Central consortium also offers a centralised contract management function (delivered by Bournemouth, Christchurch and Poole Council - BCP). This team provide participating Local Authorities with performance and financial data for all placements made through the Framework, rather than just those made by Wiltshire. This provides an opportunity to drive up the quality of IFA

placements available to Wiltshire children and young people and invest more time in strategic market developments, to deliver more local placements and more competitive prices.

Cabinet is asked to consider this proposal because of the indicative level of spend – up to £6m a year.

Proposal(s)

It is recommended that Cabinet approves Wiltshire Council joining the South-Central consortium for the purchase of IFA placements for Looked After Children, from April 2021.

It is recommended that the decision to execute any contracts that may arise as a result of the tender exercise (including the associated partnership agreements) be delegated to the Director of Commissioning, in consultation with the Cabinet Member for Children, Education and Skills.

Reason for Proposal(s)

The proposal represents the best available option to ensure on-going compliance with the Local Authority's duty to quality assure providers of IFA placements.

Participating in the South-Central consortium enables Wiltshire to:

- speak with greater authority to local market providers as part of a much larger group of Local Authorities compared to the South-West consortium (20 rather than 6).
- benefit from centralised contract management and access to much richer data about the quality of carers available regionally (not available through the South-West approach).
- Focus commissioning capacity on strategic relationship building and market shaping, which offers the greatest opportunities to drive up quality of care for children and deliver financial savings.

Choosing not to engage in a consortium approach could result in all external IFA placements being made on a spot-purchase basis, with fewer quality safeguards and potential for uncontrolled spend.

Therefore, this recommendation supports the Council's key strategic aim of delivering more high-quality, local options for our looked after children, at the best possible value.

Terence Herbert - Chief Executive Officer - People

Wiltshire Council Cabinet

24th March 2020

Subject: Sub-Regional Arrangements for Sourcing Independent Fostering Agency Placements

Cabinet Member: Cllr Pauline Church Cabinet Member for Children, Education and Skills

Key Decision: Key

Purpose of Report

1. To seek Cabinet approval for Wiltshire to participate in the South-Central consortium for the purchase of IFA placements for Looked After Children and Young People, from April 2021.

Relevance to the Council's Business Plan

2. This Service contributes to the Council's Business Plan priorities by:
 - Enabling looked after children and young people (LACYP) to access the support they need, close to home.
 - Increasing the standard of support accessed by LACYP.
 - Helping LACYP to feel safe and cared for.
 - Supporting the educational achievement of LACYP.
 - Improving the long-term outcomes of LACYP.
 - Ensuring LACYP have suitable accommodation.
 - Improving access to support for the most complex young people.
 - Supporting service users to shape the Services they receive.
 - Making responsible use of finite resources to support vulnerable young people.
 - Providing increased employment opportunities for Wiltshire residents.

Background

3. When it is decided that a child or young people must come into care to remain safe, their social worker will attempt to identify a Wiltshire Council Foster Carer (known as in-house carers) to provide a permanent, stable home. Where there is no appropriate match with an in-house carer, an external placement is made with an Independent Fostering Agency (IFA).
4. There is no single 'type' of IFA. Some are large privately-owned organisations while others are small businesses or charities. This means that there is no single model of IFA placement and there is a risk of variable quality and cost.
5. At any one time, Wiltshire places approximately 140 children and young people in external IFA placements, which is in line with our regional neighbours as a proportion of our looked after children population.

6. Each year, Wiltshire places children with around 20 different IFAs of varying size and service model. As IFAs are inspected at least annually by Ofsted, the Framework Agreement provides a basic level of quality assurance that our children and young people are safe and well cared for.
7. However, the Framework Agreement should only be the first step in an effective quality assurance process, as it only provides overarching terms and conditions against which individual placements are made. The long-term effectiveness of the Framework relies on the capacity and appetite of participating Local Authorities to work collaboratively to continuously improve processes, invest time in building relationships with key local providers and speak with one voice to the market to ensure value for money.
8. In this way, the larger the group of Local Authorities with whom Wiltshire partners, the more effectively Wiltshire can shape local placement choice to meet the needs of our children and young people.
9. The South-Central consortium supports this aim because:
 - It is a much larger group of Local Authorities.
 - It has more developed relationships with, and higher levels of engagement from, local and regional providers – including more frequent face to face meetings and events.
 - It has increased capacity for partnership working, including the development of more bespoke contracting methods that will allow Wiltshire to control costs.
10. Moreover, the effectiveness of quality assurance activity is limited by the data available on providers with Wiltshire placements. When Wiltshire only make 1 or 2 placements with a provider per year, the data we hold on them is not statistically significant.
11. Conversely, the shared contract management approach available through the South-Central consortium allows Wiltshire to compare performance of all participating providers on all consortium placements, enabling more effective risk management and increasing transparency around costs.
12. The development of a shared contract management function has been explored with the South-West consortium, but due to the relatively small geographies of some participating Local Authorities like BANES, there is no appetite to deliver this within the current consortium arrangement.
13. Wiltshire – like all Local Authorities regionally - faces increasing pressure in sourcing local placements for our children and young people. To ensure the best possible outcomes for them and to continue to control upward pressures on the price of external placements, internal capacity and resources must focus on strategic market development activities, including the development of Wiltshire's local step-down pathway. Participating in the South-Central consortium delivers this capacity in a way that is not possible through the current South-West consortium approach.

Statutory Duties

14. The Children Act 1989 required Local Authorities to “take steps that secure, as far as is reasonably practicable, sufficient accommodation within the Local Authority’s area” for Looked After Children and Young People.
15. Statutory Guidance on Securing Sufficient Accommodation for Looked After Children (2010) updates this duty and requires Local Authorities to:
 - Place children in their Local Authority boundary wherever possible.
 - Support the market to develop more local placement choice.
 - Ensure there are robust mechanisms for procuring placements, including those outside the Local Authority boundary.
 - Support and maintain a diverse provider market to meet the needs of all children and young people.
16. This guidance also increased the expectation that Local Authorities would work collaboratively through Framework Agreements or equivalent, to deliver the best possible outcomes for children and young people.
17. IFAs are regulated by the Fostering Services (England) Regulations 2011 and are inspected by Ofsted to ensure they comply with the Fostering Services National Minimum Standards. Under Ofsted’s inspection framework they receive a status of Inadequate, Requires Improvement, Good or Outstanding. Wiltshire will only place with Good or Outstanding providers unless there is evidence that placing with a Requires Improvement provider is in the best interest of an individual.
18. Local Authorities also have a statutory duty to promote and protect the health, wellbeing and educational attainment of Looked After Children, which is only achievable if the home secured is of high quality.

Current Service

19. Since 2013, Wiltshire has been a member of the South-West consortium led by Bath and North East Somerset Council (BANES).
20. The South-West Framework was re-tendered in 2017 and expires in March 2021.
21. The South-West Framework brings together 7 Local Authorities from a shared geographical footprint, who share common providers and face the same key challenges around sufficiency, quality and price of placements. The other Local Authorities involved in the current Framework, under a formal participation agreement, are¹:
 - Bath and North East Somerset Council
 - Bristol City Council
 - Gloucestershire County Council
 - North Somerset Council
 - South Gloucestershire Council
 - Swindon Council

¹ Bristol City Council and Swindon Council have made the decision to join the South-Central Framework for the next iteration of the contract.

22. The current Framework Agreement provides quality assured access to more than 30 providers under pre-agreed terms, conditions and fees.
23. The Framework approach does not guarantee any referrals to providers, nor are they obliged to accept any referrals Wiltshire makes. This means identifying matches is reliant on strong provider relationships, good quality referral information and a degree of luck in carer availability.
24. Where a child or young person requires a Service or type of support not included in the terms and conditions under the Framework Agreement, this is purchased on a spot basis, using pre-agreed hourly rates depending on the nature of the support.
25. Where a match cannot be sourced through the Framework Agreement, all providers nationally are approached, and carers are identified on a spot basis.

Main Considerations for the Council

Compliance with Statutory Duties

26. The primary consideration for the Local Authority is that Wiltshire Council has a duty to provide high-quality foster placements where required for looked after children and young people, as close to home as possible.
27. The Council also has a duty to have alternative contracting arrangements in place for sourcing external foster carer matches.
28. The best way to fulfil these duties is to work in partnership with the largest group of Local Authorities possible to procure a Framework Agreement. It is also important that Wiltshire participate in the group of Local Authorities who are most actively engaging and negotiating with providers. The South-Central consortium offers the best option to achieve this.

Delivering as Corporate Parents

29. The Council's duty as Corporate Parents means we must ensure that, wherever possible, children and young people have choice and control over where they live and how they are supported.
30. Children and young people have the right to be supported as close to their support networks, friends and schools as possible and this means ensuring there are enough foster carers within 20 miles of Wiltshire communities.
31. We also have a duty to remain ambitious for what our looked after children and young people can achieve and do all that we can to drive the quality of educational, health and social outcomes they achieve, however and wherever we identify a permanent stable home for them.
32. Participating in a Framework Agreement is just one part of delivering on these objectives, but it is an important one, because it increases the number of providers we can access, which increases local matching choices. The Framework approach also ensures that where children and young people are matched to external carers,

these placements are safe, staff supporting them are suitable skilled and supported and additional help is available at a transparent and competitive price.

Market Development

33. Participating in a Framework Agreement with a centralised contract management function frees up internal resources for strategic relationship management and market development, which would otherwise be required to quality assure and negotiate prices on a case-by-case basis.
34. This is because basic contract management functions like fee negotiations, gathering and analysis of key performance data and market mapping will be undertaken centrally and Wiltshire will have access to this intelligence, rather than needing to gather it ourselves.
35. Therefore, the commissioning capacity available for managing IFA placements will be released to focus on activity that can deliver more quality local carers at the best possible value to the Local Authority.
36. The centralised contract management function also allows Wiltshire to speak to the market as part of a larger group of Local Authorities. This is more likely to deliver opportunities for innovation and regional collaboration.

Overview and Scrutiny Engagement

37. The Chair of Children's Select Committee has been briefed on this approach and is in agreement.

Safeguarding Implications

38. Safeguarding considerations are central to this proposal because IFAs who join the Framework will support vulnerable children and young people, who will have experienced some form of neglect or abuse.
39. To join the Framework, IFAs will be required to fully comply with all legislative and Best Practice requirements around Safeguarding Children and Adults for the term of the contract. This will include being fully trained in, and compliant with, standards set by the Wiltshire Safeguarding Vulnerable People's Partnership and Wiltshire Safeguarding Adults Board.
40. All staff will be fully DBS checked and will access safeguarding training every three years and this will be monitored through the contract review process. Managers will be expected to be Safer Recruitment trained.
41. All IFAs will be expected to conduct and submit safeguarding audits annually.

Public Health Implications

42. There are no negative Public Health Implications in Wiltshire Council being part of the South West Consortium.

43. By participating, Wiltshire Council will be ensuring that we have high quality and safe foster care placements available for our most vulnerable looked after children and young people. This will support the achievement of Public Health's strategic priorities by:

- Ensuring looked after children and young people access the physical and mental health services that they need to be healthy, including being registered with and accessing local GPs and dentists.
- Providing supportive and nurturing home environments for looked after children and young people, which will increase their physical and emotional wellbeing.
- Providing bespoke support plans and guidance to enable young people to make positive lifestyle choices, including quitting smoking, reducing or ending substance use and/or making safe sexual health and relationship choices.
- Encouraging and enabling children and young people to participate in physical activities and hobbies.
- Working to reduce health inequalities by providing looked after children with targeted support and practical advice to live health adult lives.

Procurement Implications

44. Procurement activity will be led by Southampton Council as the framework owner and will be PCR 2015 compliant. Southampton will sign the Framework Agreement on behalf of Wiltshire Council. Core contract management activity will be conducted by Bournemouth, Poole and Christchurch Council. Wiltshire Council will enter into separate Partnership Agreements with both Local Authorities for the purpose of accessing the framework and on-going performance data.

45. Placements for children and young people will be made under an Individual Placement Agreements entered into between Wiltshire Council and the Provider in question. Wiltshire Council will retain responsibility for all costs and outcomes relating to individual children and young people.

Equalities Impact of the Proposal

46. An Equalities Risk Assessment identified that this Service is low risk. However, a full Equalities Impact Assessment was completed. *See Appendix 1.*

47. The proposed procurement route will increase market choice and therefore, provide more options for meeting the needs of the most vulnerable children and young people, included those with protected characteristics.

48. All providers who put forward a tender bid will be evaluated against the same criteria, with their equality and inclusion policies being thoroughly reviewed to ensure:

- they tackle inequalities and promote cohesive
- they do not discriminate in the way, including with employment related practices
- they promote equality and good relations between different groups

Environmental and Climate Change Considerations

49. The primary impact on the environment will come from staff needing to do fewer long journeys to visit young people placed out of county, if greater local placement choice can be delivered.
50. The Service does not create any new environmental management risks as children and young people will be housed in existing properties, in existing communities. Providers will be pro-actively encouraged to recruit foster carers within the sub-regional area, to reduce travelling required to meet the needs of children and young people matched.

Risks that may arise if the proposed decision and related work is not taken

Risk 1: Compliance

51. If the Local Authority is not part of a formally established contractual agreement, which for the purposes of this report is through entering a Framework Agreement, we will no longer be compliant with statutory duties.

Risk 2: Placement Quality

52. If the Local Authority is not part of a Framework Agreement, we have no influence over the quality of placements offered to us, creating a risk to safeguarding and placement quality.
53. If the Local Authority joins the South-West consortium, the quality of available placements will remain at current levels, which can be variable.

Risk 3: Distance Placements

54. If the Local Authority is not part of a Framework Agreement, we have no influence over the location of placements offered to us, significantly increasing the likelihood of making distance placements.
55. If the Local Authority joins the South-West consortium, the location of available placements will remain at current levels, which involves making too many placements outside of Wiltshire.

Risk 4: Placement Cost

56. If the Local Authority is not part of a Framework Agreement, we have no influence over the cost of placements offered to us, creating uncontrolled pressures on the placement budget.
57. If the Local Authority joins the South-West consortium, the cost of individual placements for children and young people will remain at current levels, which includes a higher than desirable proportion of off-contract spend.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

Risk	Likelihood	Impact	Mitigating Action(s)	Residual Risk
Not enough providers join the Framework	Low	High	Joining South-Central increases the numbers of providers available from 30+ to 50+.	Low
Not enough placements are available	High	High	This is a risk created by the market and is not mitigated by any one Framework Agreement over another. However, joining South-Central frees up strategic capacity to develop the local market, which is most likely route to reducing this risk in the medium term.	Moderate
Placements costs continue to increase	High	Moderate	It is likely that costs will continue to increase with inflation, especially for more complex CYP, but they will be more controlled under a Framework agreement. Joining South-Central will provide greater transparency of regional costs and allow Wiltshire to speak to the market as part of a larger, more influential block of Local Authorities. The centralised contract management function also increases accountability for Providers with regard to costs charged.	Low
Not enough local placements available	High	Moderate	This will continue to be a market-wide challenge but joining South-Central frees up strategic capacity to develop the local market and focus on relationships with providers who can feasibly deliver local sufficiency. It also increases the number of providers from whom we can source placements, increasing the likelihood of a local match.	Moderate
The framework 'freezes' the market	Low	Moderate	The framework will be re-opened annually to allow new entrants to join. Joining South-Central increases the likelihood of spot providers bidding to join, due to the increased market share.	Low
Joining the South-Central framework damages regional relationships with South West authorities.	Low	Moderate	Wiltshire will remain a leading member of the South-West Residential and Leaving Care Frameworks and an active participant in the South-West Commissioners Board (meeting at least quarterly). This will enable us to collaborate on delivering local solutions.	Low
Existing key providers do not join the South-Central Framework	Low	High	All existing providers will be encouraged to join from an early stage and multiple engagement events are planned for the next 12 months. If Providers only have capacity to bid to join one Framework, they are most likely to join South-Central as a larger contract.	Low

Financial Implications

58. The cost of joining the South-Central Framework is estimated at £13,000 in procurement and legal contributions. The annual on-going costs is estimated at £13,000 a year to access the shared contract management function.²

² Estimate based on pro-rata payments for each member, final figure may vary slightly.

59. This is an increase in cost versus the the South-West Framework, which only carries a one-off cost of £5,000 for the procurement exercise, as there is no on-going contract management or centralised resource available.
60. The annual cost membership of the South-Central Framework equates to £15,600 - £78,000 over the 5-year term. This is the equivalent of 18 weeks of a standard IFA placement, or 12 weeks of a complex IFA placement.
61. Once the regional framework is agreed, and all participating authorities are committed to the project, actual costs will be agreed. These will be dependant on the level of input agreed by all local authorities, and as such, the above costs are indicative.
62. The financial benefits of the proposed framework agreement are that the council will be in a stronger position to access and procure placements at regionally negotiated rates. The use of spot purchase should be reduced as more cost-effective framework placements for children and young people become available to us.
63. The centralised contract management function offered by the South-Central Framework will incorporate quarterly monitoring and challenge of placements made above standard price and a more robust approach to sourcing bespoke placements for children and young people with complex needs. These are the key sources of budget pressure on IFA placements and as such, this approach offers the best opportunity to control upward pressure on spend.
64. The savings delivered through increased strategic activity and relationship building will be closely monitored and are expected to exceed the £15,000 a year cost of joining the framework.
65. The total budget for looked after children externally commissioned placements is £12.6 million with a forecast spend of £14.1 million for 2019-20 financial year, entering into this framework agreement is one of many strategies being deployed to reduce cost pressure.

Legal Implications

66. Wiltshire will enter a Partnership Agreement with Southampton and Bournemouth, Christchurch and Poole Councils, for the purpose of accessing the Framework Agreement.
67. The Council's legal team have been engaged to review the contractual terms and conditions of both Participation Agreement and the Framework Agreement that Southampton Council will enter into with providers on Wiltshire's behalf. This legal review will be undertaken to determine whether the approach will fully protect Wiltshire Council and that risks and responsibilities are equitably shared between the parties.
68. The review will also consider that the approach will allow the Council to meet all its statutory requirements in respect of its duties to safeguard and promote the welfare of young people leaving care, maintain suitable accommodation for them and provide other support as required to prepare them to succeed as adults.

69. The proposed procurement route will ensure that the Council is fully compliant with regulation 33 of the Public Contracts Regulations 2015 and all other procurement legislation, including in relation to its Best Value Duty.

Workforce Implications

70. There are no workforce implications as it relates to an alternative commissioning route for a Service that is already commissioned. Therefore, the same providers will still be available and accessed and therefore operate in the same way.

71. There is no impact on Wiltshire Council staff.

Options Considered

72. The options considered were:

- Do nothing
- Contract as a single Local Authority
- Join the South-West Framework
- Join the South-Central Framework

Do Nothing

73. Doing nothing would mean allowing the current Framework Agreement to expire in March 2021 and moving all future IFA placements onto a spot purchase basis. This would lead to uncontrolled pressure on the placement budget and require more than 140 placements to be individually quality checked and monitored, which is not viable.

Contract as a single Local Authority

74. Contracting as a single Local Authority would mean setting up a stand-alone Framework for Wiltshire. There would be no incentive for Providers to submit to the tender process for a single Local Authority, so this option would in reality be similar to the do-nothing approach.

Join the South-West Framework

75. This would mean re-joining the same Framework Agreement that Wiltshire has participated in since 2013.

76. This approach would involve lower direct cost (£5,000 up front cost). However, the on-going cost of ensuring good value and high-quality placements would exceed the cost of joining the South-Central Framework. Conducting a quality assurance programme as an individual Local Authority (as required under all other options) would exceed £30,000 a year in officer time.³

³ Based on a minimum of 1 day per week of Senior Commissioner time, 2 days per week of Assistant Commissioner time and 1 day a month of Category Specialist time each year.

77. In addition, the South-West Framework partners are not intending to provide or support centralised contract management. This reduces the level of accountability providers are held to for delivering strong outcomes for our children and young people.

78. Under this approach, internal commissioning, operational and brokerage capacity would remain focused on day-to-day management of placements, leading to continued upward pressure on the placement budget.

Join the South-Central Framework

79. This approach would involve paying the associated fees to join the South-Central Framework and access the centralised contract management function.

80. This option delivers the greatest benefit to children and young people, by increasing both the number of providers from whom placements can be sourced and the quality of safeguarding and performance data available for each provider, against which carer matches are agreed. This increases the opportunities of finding the right long-term match for children and young people, where they will be able to access the support they need to succeed as independent adults.

81. There are no guaranteed cashable savings, but participation in the South West consortium allows for officer time to be re-focussed to further develop strategic relationships with key providers, who can offer the best quality local placements at the best available value. The impact on the IFA budget will be closely monitored and it is anticipated that related activity will deliver savings at least equivalent to the annual cost (£15,600) of joining the Framework.

Conclusion

82. It is recommended that Cabinet approves Wiltshire Council joining the South-Central consortium for the purchase of IFA placements for Looked After Children, from April 2021.

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28th December 2019

Appendices

1. Equalities Impact Assessment

Background Papers

None