

LONDON BOROUGH OF CROYDON

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STATEMENT OF EXECUTIVE DECISIONS MADE BY THE CABINET MEMBER FOR CHILDREN YOUNG PEOPLE AND LEARNING ON 1 OCTOBER 2015

This statement is produced in accordance with Regulation 13 of the Local Authorities (Executive Arrangements) Meetings and Access to Information) (England) Regulations 2012.

The following apply to the decisions listed below:

Reasons for these decisions: are contained in the **attached** Part A report

Other options considered and rejected: are contained in the **attached** Part A report

Details of conflicts of Interest declared by the Cabinet Member: none

Note of dispensation granted by the head of paid service in relation to a declared conflict of interest by that Member: none

The Leader of the Council has delegated to the Cabinet Member the power to make the executive decisions set out below:

CABINET MEMBER'S EXECUTIVE DECISION REFERENCE NO. 55/15/CYPL Decision title: Procurement of Independent Fostering Agency Framework Update

Having carefully read and considered the attached Part A report and the requirements of the Council's public sector equality duty in relation to the issues detailed in the body of the report, the Cabinet Member for Children, Young People and Learning in consultation with the Cabinet Member for Finance and Treasury and the Leader of the Council

RESOLVED

To approve revisions to the procurement strategy for the tendering of a new Framework Agreement with Independent Fostering Agencies for the delivery of fostering placements for Children Looked After in respect of:

- 1.1 The Price/Quality evaluation ratio which will be applied to the tenders as detailed in paragraph.3.3 of the attached report; and
- 1.2 The restructuring of Lot 3 as detailed in paragraph.3.10 of the attached report.

REPORT TO:	Cabinet Member for Children, Young People and Learning
AGENDA ITEM:	n/a
SUBJECT:	PROCUREMENT OF INDEPENDENT FOSTERING AGENCY FRAMEWORK UPDATE
LEAD OFFICER:	Paul Greenhalgh, Executive Director People
CABINET MEMBER:	Cllr Alisa Flemming, Cabinet Member for Children, Young People and Learning And Cllr Simon Hall, Cabinet Member for Finance and Treasury
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT: No change to consideration on the original report.	
AMBITIOUS FOR CROYDON & WHY ARE WE DOING THIS: No change to consideration on the original report.	
FINANCIAL IMPACT The anticipated total contract value will be £69.9m for the lifetime of the framework including the one year extension. This is based on the 2014/15 rates for UASC and may be subject to change following the completion of negotiations with the Home Office regarding the rate paid to Croydon. The procurement approach described in this report anticipates an approximate saving of up to 10%.	
KEY DECISION REFERENCE NO.: Not a key decision	

The Leader of the Council has delegated to the Cabinet Member for Children, Young People and Learning the power (decision reference no. 50/15/LR) to make the decisions set out in the recommendations below:

1. RECOMMENDATIONS

The Cabinet Member for Children, Young People and Learning, in consultation with the Cabinet Member for Finance and Treasury and the Leader is recommended to approve revisions to the procurement strategy for the tendering of a new Framework Agreement with Independent Fostering Agencies for the delivery of fostering placements for Children Looked After in respect of:

- 1.1 The Price/Quality evaluation ratio which will be applied to the tenders as detailed in paragraph.3.3; and
- 1.2 The restructuring of Lot 3 as detailed in paragraph.3.10.

2. EXECUTIVE SUMMARY

2.1 This report seeks Cabinet Member approval for changes to the Procurement Strategy for the tendering of Independent Foster Agencies (IFA) as agreed by the Cabinet on the 16th March 2015 (Min A47/15,1.3(2)). Following further elaboration on the tender evaluation approach the following changes to the existing procurement strategy are recommended:

- Changes to the original Price Quality evaluation ratio contained in the Clause 3.4.6 from Price 40% Quality 60% by assigning a greater weighting on Price so as to apply a Price 60% Quality 40% ratio.
- The restructuring of Lot 3 that will group those providers who are not successful in obtaining a place in Lot 1 and Lot 2 but have the opportunity to join the Framework through a refresh process.

2.2 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB Approval Date	CCB ref. number
7 September 2015	CCB1042/15-16

3. DETAIL

3.1 The commissioning of high quality Independent Fostering services through Agencies on the Framework will assist the Council in meeting its statutory duty stipulated in Section 20 of the Children Act 1989, that is to ensure that Children Looked After are accommodated in the most appropriate way. The proposed Framework Agreement will assist the Council in achieving this by improving access to high quality placements and creating greater competition

in the social care market. This approach will also ensure legal compliance with EU Procurement Directives and the Public Contract Regulations 2015.

CHANGES TO PRICE QUALITY EVALUATION

- 3.2 The revised quality price evaluation method that has been developed will offer additional benefits to the previously agreed procurement approach including efficiency savings, a better market response and a greater focus on obtaining high quality fostering placements. The proposed approach will move from an evaluation framework based on 60% quality and 40% cost to a framework of 40% quality and 60% cost but will still deliver the aspirations of the Council by ensuring that high quality local placements are sourced for our vulnerable children and young people. It will also offer a greater flexibility in operating the framework that will enable the Council to obtain services at the right quality and at a competitive price.
- 3.3 This proposed change has come about insofar as the original weighting assigned to the evaluation - Quality 60% and Price 40% - was based on the assumption that the quality of the services will be fully assessed as part of the tender assessment process.
- 3.4 Based on recent developments and learning from similar fostering procurement exercises, an opportunity has been identified to evaluate quality in a different way which it is believed will provide a more robust approach.
- 3.5 This approach will utilise and build on the Ofsted regulatory framework, which ensures compliance with the National Minimum Standards for Fostering Services as well as have robust local quality measures. In addition, as opposed to the original approach which would undertake a one-off quality assessment during the tendering process, the new approach is an ongoing and live refresh process that will ensure the minimum standard of being a good or outstanding provider is maintained throughout the lifetime of the framework.
- 3.6 It is considered that the proposed model will be a more effective vehicle for achieving further quality and cost improvements in the sector over the coming four years. The proposed changes to the evaluation approach will enable the Council to secure competitive rates as well as maintaining a high quality independent fostering service.
- 3.7 The key features of the approach are outlined below:
 - Identification of robust quality tested providers that will be judged as 'Good' or 'Outstanding' by Ofsted for appointment onto the Framework Agreement.
 - Compliance with the Council's mandatory requirements and minimum quality standards as specified in the initial eligibility and subsequent award criteria of the tendering process. These minimum criteria include registration with

Ofsted, compliance with relevant requirements including equalities, health and safety, safeguarding, staffing, qualification and professional membership.

- There will be a live refresh process to ensure the minimum standard required of being classified as a good or outstanding provider by Ofsted applies to all qualifying providers in Lot 1 and Lot 2 throughout the lifetime of the framework. This number will be limited to 30 providers for Lot 1 and Lot 2.
- Those providers who have met the minimum qualification criteria and quality threshold but were not successful in obtaining a place in Lot 1 and Lot 2 in our Framework of Providers will be grouped separately under Lot 3. This lot will effectively operate as a holding list and will be updated when changes occur in Lot 1 and Lot 2 including downgrading in Ofsted rating below a judgement of good. Provider listed in Lot 3 will be offered the opportunity to join the Framework following, but not limited to, an annual refresh procedure that enables all providers to update both their pricing and Ofsted rating.
- The quality will be assured through robust monitoring of independent fostering placements within the framework. IFA placements will be required to deliver to a high standard of quality and any underperformance will be subject to remedial requirements and more rigorous monitoring of placements within the framework as set out in the Terms and Conditions of the IFA contract.

3.8 The intention is to put in place a more flexible operating model that takes into account the lessons learned from other fostering related procurements that have taken place previously. If agreed, the implementation of the proposed procurement approach will ensure that similar commissioning elsewhere in London does not negatively impact on the Council's ability to source placements at a competitive price. The challenging context for achieving further efficiencies from the IFA market in London, mainly due to increased competition from other sub-regions, requires a new approach to pricing that will enable the Council to obtain preferential rates through tendering and ensure that prices remain competitive for the duration of the Framework.

RESTRUCTURING THE LOTS

3.9 The structure of the Lots as outlined in the original procurement strategy report included:

- Lot 1 - Standard placements for Children Looked After who are in need of core services
- Lot 2 - Specialist placements for Children Looked After who are in need of specialist services including children with complex and challenging needs.
- Lot 3 - Emergency placements defined as when the local authority has had little or no involvement with a child prior to removing the child to ensure its immediate protection.

3.10 Following further consultation with the service department a change is recommended in the Lots structure. Standard and Specialist placements (Lot 1 and Lot 2) will remain broadly the same with some amendments to the

scope and content of Lot 3. Emergency placements costs and process will now be incorporated within the standard and specialist lots.

3.11 This option will continue to give the framework sufficient flexibility to accommodate changes to the placement costs that reflect the outcome of the assessment.

3.12 The revised Lot 3, if agreed, will comprise those providers who have met the quality threshold but were not successful in obtaining a place in Lot 1 and Lot 2.

4 CONSULTATION

No change to consideration on the original report.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 It is anticipated that the total spend on the framework for the four year period will be £69.9m. Of this, £11.8m will be on local placements, and the remaining £58.1m which will be paid through the UKBA grant subsidy will be on UASC placements and could be subject to change upon completion of the negotiations regarding the daily rates with the Home Office.

Revenue and Capital consequences of report recommendations

	Current year		Medium Term Financial Strategy – 3 year forecast	
	2015/16	2016/17	2017/18	2018/19
	£'000	£'000	£'000	£'000
Revenue				
Expenditure				
Local	£3.7m	£3.1m	£2.5m	£2.5m
UASC	£10.8m	£13m	£15.6m	£18.7m
Income				
UKBA grant	<u>(£10.8m)</u>	<u>(£13m)</u>	<u>(£15.6m)</u>	<u>(£18.7m)</u>
Net expenditure	£3.7m	£3.1m	£2.5m	£2.5m

5.2 The effect of the decision

This decision will allow the procurement of a framework agreement with a number of service providers to deliver the Council's requirements for Independent Foster Care services with a total value of £69.9m. The budget for the service in 2015/16 just over £3.4m therefore there is a cost pressure of £300,000 in the first year of the framework.

5.3 Risks

There is a risk that the assumptions the model has been based on do not come to fruition; it may not be possible to achieve the weekly rates for local standard placements as predicted; there may be continued increase in demand and there may be a higher demand than expected for additional

support

5.4 **Options**

The service has considered the option of a Dynamic Purchasing system; and in the medium term is seen an option the Council would like to consider. This will however require thorough planning, implementation and mobilisation capacity and will need to be considered as a wider model we would like to move across the wider Peoples Department.

This proposal to develop a new framework agreement is considered to be the optimum approach in the current circumstances.

5.5 **Future savings/efficiencies**

The procurement strategy detailed in this report which is to deliver a single framework for all independent fostering provision, is targeting savings of up to 10%.

Approved by: Lisa Taylor – Head of Finance and Deputy S151 Officer

6. **COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER**

The Council Solicitor comments that the procurement process as proposed in this report would meet the requirements of the Council's Tenders and Contracts Regulations and the statutory duty to demonstrate best value under the Local Government Act 1999

Approved by: Gabriel MacGregor, Head of Corporate Law on behalf of the Council Solicitor & Monitoring Officer

7. **HUMAN RESOURCES IMPACT**

- 7.1 This paper makes recommendations involving changing service providers which may invoke the effects of the Transfer of Undertakings (Protection of Employment) 2006 Legislation. However, where the activities of the new service are "fundamentally not the same", TUPE may not apply, as provided for by the 2014 amendments to the Transfer of Undertakings (Protection of Employment) 2006 Legislation. The application of TUPE or otherwise would be determined between the service providers.

Nevertheless, this would remain a change of service provision for which the Council is the client; on that basis, the role of the Council would usually extend no further than facilitating the process. There is no other substantial Human Resource impact for LBC staff.

Approved by: Deborah Calliste, HR Business Partner, on behalf of the Director of Human Resources

8. **EQUALITIES IMPACT**

No change to consideration on the original report.

9. ENVIRONMENTAL IMPACT

No change to consideration on the original report.

10. CRIME AND DISORDER REDUCTION IMPACT

No change to consideration on the original report.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

No change to consideration on the original report.

12. OPTIONS CONSIDERED AND REJECTED

No change to consideration on the original report.

CONTACT OFFICER: Mirela Lopez, Category Manager, CFL

BACKGROUND PAPERS - NONE