

<b>Director of Children and Family Services</b>	<b>Ref No: OKD27 (18/19)</b>
<b>March 2019</b>	<b>Officer Key Decision: Yes</b>
<b>Contract Award of a Dynamic Purchasing System (DPS) for Children's Placements and Other Accommodation and Support Services (SEND and Children's Social Care)</b>	<b>Part I</b>
<b>Report by Strategic Market Development Manager</b>	<b>Electoral Divisions: All</b>

### **Summary**

The County Council has a statutory responsibility to ensure the sufficiency of a variety of accommodation based services and educational placements for children, young people and young adults. This responsibility extends beyond Children who are Looked After (CLA) and those with Special Educational Needs and Disabilities (SEND) and includes care leavers, those on the edge of care, Unaccompanied Asylum Seekers (UASC) and those at risk of homelessness.

Whilst the County Council provides some of these services, the demand is such that a significant number of placements are purchased from the external market and evaluation shows this trend is expected to continue.

In July 2018 the Cabinet Member for Children and Young People and the Cabinet Member for Education and Skills jointly approved the procurement of a Dynamic Purchasing System (DPS), to facilitate the purchasing of placements for individual children from providers of accommodation based services and educational placements including independent foster and residential care and independent and non-maintained special schools, as and when they are required (Decision reference [CYP03](#) (18/19)). The maximum term of the DPS is to be 7 years starting on 1 March 2019 and concluding on 28<sup>th</sup> February 2026. The Cabinet Members also delegated authority to the Director of Children and Family Services to implement the DPS.

A procurement process has now taken place and the Director of Children and Family Services is being asked to approve the commencement of awards to providers qualified to join the DPS.

### **West Sussex Plan: Policy Impact and Context**

This procurement will contribute to the key strand, Best Start in Life. In particular:

- Children and young people feel safe and secure
- Access to education that meets the needs of our community
- Children and young people are able to thrive

### **Financial Impact**

The gross annual budget for placements subject of this proposal is £43.7m.

## **Recommendation**

The Director of Children and Family Services is asked to approve the award of DPS Agreements to providers who have met the relevant selection criteria for joining the Children's Placements and Other Accommodation and Support Services (SEND and Children's Social Care) Dynamic Purchasing System. The maximum term of the DPS will be 7 years starting on 1 March 2019 and concluding on 28<sup>th</sup> February 2026 as detailed in paragraph 1.9.

## **Proposal**

### **1. Background and Context**

- 1.1 The County Council has a current Dynamic Purchasing System (SEND DPS) which facilitates the identification and securing of placements within independent and non-maintained special schools for children with Special Educational Needs. The County Council uses the existing SEND DPS when all other options have been exhausted and/or where parents take their preference for their child to be educated in a particular school to Tribunal and there is agreement that a highly specialist placement is required.
- 1.2 A DPS is essentially a list of providers who meet pre-set criteria and standards defined by the County Council; the DPS remains continually open to new joiners throughout the term of operation thus making it agile and able to respond to changing demand.
- 1.3 All providers listed on the DPS have sight of all the business opportunities (relevant to the customer group each is aimed at and that are within scope) that the County Council has available. The providers have an opportunity to express an interest for this business and be considered through the prescribed contractual process, termed "call-off".
- 1.4 The existing SEND DPS expires on 28 February 2019. There are 5 local authority partners, subject to a partnership agreement, who also use the DPS at a local level.
- 1.5 The County Council also has a shared framework with Brighton and Hove City Council which similarly facilitates the identification and securing of placements with independent children's homes providers and independent fostering agencies for Children Looked After (CLA). As with the SEND DPS, all in-house options will have previously been explored before any decision to seek a placement in the independent sector is sought. The framework expires in October 2019.
- 1.6 In July 2018 the Cabinet Member for Children and Young People and the Cabinet Member for Education and Skills jointly approved the procurement of a single DPS, to facilitate the purchasing of placements for individual children from providers of accommodation based services and educational placements including independent foster and residential care and independent and non-maintained special schools, as and when they are required.

- 1.7 The DPS itself has no actual contract value; it makes no guarantee of business for any provider. The potential spend by the County Council through the DPS is anticipated to be £43.7m per annum; with a 7 year term the total potential value of spend by the County Council through the DPS will be £305.9m
- 1.8 Procurement of the DPS commenced on September 7th with an initial closing date of 2nd November to facilitate the expected large number of applications needing to be processed prior to the start date of March 1<sup>st</sup> 2019.
- 1.9 The DPS has been procured for a potential 7 year term:
- Substantive period of 3 years, 1 March 2019 – 28 February 2022
  - Option to extend for a further 2 years, 1 March 2022 – 29 February 2024
  - Option for final extension period of 2 years, 1 March 2024 – 28 February 2026.
- 1.10 As part of the decision taken by the Cabinet Members in July 2018 they agreed that authority be delegated to the Director of Children and Family Services to implement the DPS.

## **2 Proposal**

- 2.1 The Director of Children and Family Services is asked to approve the commencement of awards of DPS Agreements, to successful providers who have met the relevant selection criteria, which will facilitate the purchasing of placements for individual children from providers of accommodation based services and educational placements including independent foster and residential care and independent and non-maintained special schools, as and when they are required.
- When a placement is, or a block of placements are, required under the DPS, it/they will be sought through a call-off process. This means that providers will be asked to respond to the referral with an Expression of Interest (EoI)/Response Form clearly setting out how they can meet the needs of the child, deliver the intended outcomes and propose a price (which cannot exceed the price stated in the application to join the DPS).
- 2.2 The DPS remains open for new providers to join throughout its contract term. The Director of Children and Family Services will delegate authority to appoint additional successful applicants, who meet the relevant selection criteria, to the DPS throughout the life of the DPS to the Head of Market Development (CAFHE). New entrants will be appointed to the DPS for the remainder of the duration and, from the date of appointment, such new entrants will be entitled to participate in relevant call-off process.
- 2.3 Delegation to award contracts for individual placements made by calling-off from the DPS will be given to the respective budget holders for SEND and Children's Social Care.

- 2.4 Use of the DPS at a local level by other local authority partners will continue to be allowed and will be subject to a Partnership Agreement drawn up by Legal Services.
- 2.5 To date 62 providers have submitted an application to qualify for a DPS Agreement. All 62 have been assessed as eligible for award onto the DPS. As the DPS remains continually open to new joiners throughout the period of operation this number is likely to increase over the life of the DPS.

## **FACTORS TAKEN INTO ACCOUNT**

### **3 Consultation**

- 3.1 Consultation with service users, the market and wider internal and external stakeholders has been ongoing throughout the procurement process.

- 3.2 **Members**

The proposal was considered by the Children and Young People's Services Select Committee at the meeting on 20 June 2018. The Select Committee was pleased with the direction of travel and endorsed the Cabinet Members' decision to approve progress with the procurement, requesting that an update on progress be provided to the Committee during the early part of 2019.

- 3.3 **External**

Consultation with the market sectors' representative bodies, National Association of Non-Maintained and Independent Special Schools (NASS), Nationwide Association of Foster Providers (NAFP) and the Independent Children's Homes Association (ICHA) has been undertaken. This has included involvement in workshops, task and finish groups and round-table discussions and has led to a more collaborative approach in developing the new DPS that has taken account of the knowledge and views of providers. Additionally, Ofsted and the Department for Education have contributed to discussions and provided a steer to the project team.

- 3.4 **Public**

Using a co-production method parent representatives from the West Sussex Parent Carer Forum have been consulted and involved in workshop events to develop the outcomes-based approach the new DPS incorporates.

Young people (representatives from the Children in Care Council) took part in a consultative exercise with regards to the development of a Common Outcomes Framework, focusing in particular on what matters most to them. Involvement of both groups directly influenced the Common Outcomes Framework and the drafting of the new contract documents.

- 3.5 **Internal**

Representatives from Procurement, Finance and Legal Services are part of the project team and have been closely involved in the development of this proposal. Colleagues in IT have also confirmed that the existing eSourcing portal currently used by the County Council will meet the requirements to support a DPS.

Other County Council colleagues who have made significant contribution include the Head of Children's Social Care and Head of Inclusion (SEND).

### **3.6 The existing and potential supplier market**

The County Council continues to engage with existing and emerging suppliers across all the accommodation based and SEND educational placement sectors through market engagement events, supplier monitoring visits and individual placement negotiations. This ongoing consultation will inform the specifications for the service and signal the County Council's intentions of cost and quality to the individual sectors.

## **4. Financial (revenue and capital) and Resource Implications**

### *4.1 Revenue consequences of proposal*

4.1.1 The County Council's 2019/20 revenue budget for children's placements subject to this proposal is £43.7m (£21.6m in the Children & Young People's portfolio and £22.1m in the Education portfolio).

4.1.2 Quantifying the potential revenue impact depends on too many variables to produce an accurate estimate. In addition, as new prices will only apply to new placements it is impossible to predict the financial year within which the full financial impact will be felt. However, the existing framework cannot be extended further and the DPS does provide a mechanism through which the County Council can maximise value for money from placements for vulnerable children. If the DPS was not implemented then the Council would be at more risk from price pressure in the market, as effectively providers could chose to charge whatever price they wanted. West Sussex does not have a large share of the children's placement market and is a net importer of placements from other local authorities who are often willing to pay higher prices.

4.1.3 On average, prices submitted by providers under the new DPS are higher than the prices on the current framework. For IFA's they are 6.6% higher on average and for Agency Residential they are 3.6% higher. However, it should be remembered that the actual price paid depends very much on the needs of the individual child for whom the placement is sought. Even under the current framework there are two providers whereby prices paid are significantly higher than the prices submitted, and even with the new DPS this is likely to continue to be the case because of the increasing complexity of children's needs. In addition, 52% of current Agency Residential placements are with providers who are not part of the existing framework. It should also be noted that within the current SEND INMSS arrangements 80% of spend is incurred with 24 providers. Within this DPS round only 6 of those have made a submission at this stage. Of those 6 there are marginal changes in fees going forward. Therefore it is difficult to assess the overall financial impact due to a lack of submissions from the key providers.

4.1.4 Neither the Children & Young People or Education portfolios have included an estimate for price increases as a result of implementing the DPS into their 2019/20 growth allocations in the Medium Term Financial Strategy because the impact could not be quantified at budget setting stage. The impact in

2019/20 is likely to be low because new prices only apply to new placements, and will be managed as far as possible through monitoring and reviewing all placements to ensure the support provided represents value for money and that they remain appropriate for the child. From 2019/20, an estimate of the impact will be built into growth assumptions because both models take into account the increases in unit costs over and above corporately allocated inflation.

#### 4.2 *Capital consequences*

There are no capital consequences as a result of this proposal.

##### *The effect of the proposal*

#### 4.3 *Future transformation, savings/efficiencies being delivered*

4.3.1 Whilst no cashable savings have been attributed to the mobilisation of the DPS, it is expected that it will be the vehicle to manage unit cost prices of placements, retain value for money and identify potential savings where available. The DPS is one of a package of delivery models that will be introduced following the development and implementation of the Commissioning Strategy for Children and Young People with Complex Needs 2017-2021 which is intended to improve outcomes, manage placements more effectively, and engage with the market more effectively to secure improved value for money in the future.

4.3.2 The new contract documentation places a high priority and importance on effective monitoring and management arrangements; these enable early identification of opportunities to reduce high levels of support to the child when appropriate to do so, thus reducing fees accordingly.

4.3.3 An additional feature of the contract documentation is that any extra support or service that a child is to receive will be recorded with a start, review and end date for payment thus providing a timely prompt to officers to reconsider the necessity and continued value of that support or service.

#### 4.4 *Human Resources, IT and Assets Impact*

Staff resource to manage the DPS has been identified and secured from within business-as-usual functions and includes Legal Services, Procurement, Finance and Contracts and Commissioning Officers. Therefore no additional staff resource is sought.

## **5. Legal Implications**

5.1. The services to be procured under the DPS are deemed to be social and other specific services for the purposes of Schedule 3 (Social and other specific services) of the Public Contracts Regulations 2015. The potential value of spend under the DPS exceeds the threshold of €750,000, so the procurement regime set out in Chapter 3 Section 7 of the 2015 Regulations (known as the "light touch" regime) applies for the purpose of procuring the DPS. The procurement has therefore been undertaken in accordance with the relevant requirements of the Public Contracts Regulations 2015. The requirements for the establishment and operation of the DPS, as well as the selection criteria

to be satisfied by providers seeking admission onto the DPS and the procedures for the award of call-off contracts, were all set out in the invitation to participate documents.

## **6. Risk Management Implications**

- 6.1. There has been a risk that SEND schools in particular would not respond and apply to join the DPS; however going forward schools have been encouraged to apply to the ongoing DPS and so far a further 5 organisations have done so. However when a parent requests a place which is not covered by the DPS, or a SENDIST (Special Educational Needs and Disability Tribunal) orders the County Council to make a placement in a school which isn't on the DPS, the National Association of Special Schools (NASS) contract will be used.
- 6.2. There is a risk that will not be enough interest in future Call-offs, however additional resource has been allocated to managing the relationships with Providers and encouraging them to submit EOI when call-off opportunities arise.

## **7. Other Options Considered**

- 7.1 Other options were considered in developing the proposal which are set out in the Cabinet Member Decision Report (decision reference [CP03\(18/19\)](#)).

## **8. Equality Duty**

- 8.1 The children placed through the DPS will have a wide range of needs, and therefore any proposal needs to consider the potential impact on them in terms of their sex, age, disability, race, religion, cultural identity, or sexual orientation.
- 8.2 The services to be provided are education and care, using an outcomes based approach to the identification of the placement most able to meet the individual child's needs. This will ensure that the proposed arrangements meet all the equality obligations of the County Council. It is therefore not envisaged that there will be any negative impact for the children. Rather, the proposed arrangements will enable a greater focus on their individual needs.
- 8.3 Services to be delivered through this DPS are to be child centred and outcome focused. The key outcomes for the individual child will relate to:
  - Safety
  - Health
  - Resilience
  - Self-esteem
  - Control
  - Relationships
  - Achievement
  - Participation
  - Independence
  - Inclusion
  - Well-being

Through the sharing of referral information during the call-off process, the proposal will help to develop the market, so that it is responsive to the identified needs of children. Improved relationships between the County Council and providers will assist in ensuring that the appropriate services are being developed.

- 8.4 The service specifications require all providers to deliver in relation to the equality agenda of the County Council. They will be required to respect and value difference, and ensure that the social, cultural and religious needs of the children are acknowledged and supported.
- 8.5 In addition to the outcomes sought for individual children, there will also be community level outcomes which will further enhance the children's lives:
- Strong local economy – e.g. providing employment opportunities
  - An inclusive and supportive community
  - A safe and healthy environment.
- 8.6 The providers will be required to work in partnership with the County Council in developing their services. Providers will be required to take positive action to address any discrimination which affects a child, and develop their own practice, including provision of adequate training for their staff, to ensure that equality is always a primary concern. This will mean that providers and their staff who may be meeting the needs of children in relation to some specific characteristics are also learning to recognise that children are not defined by a single characteristic.
- 8.7 Service providers will be required to implement effective quality assurance processes which will be subject to contract monitoring and compliance checking on a regular basis. This will ensure the impact of service delivery is measured and evaluated. The outcomes for individual children will be monitored through the care planning process, and/or annual reviews of the Education, Health and Care Plan.

## 9. **Social Value**

- 9.1 Embedded within the new contract is a requirement for the provider to consider social value in all aspects of the business and provide evidence that it has considered and/or implemented actions flowing from the Public Services (Social Value) Act 2012. This may include, but will not be limited to:
- Supporting local economic development;
  - Providing training and employment opportunities, including supporting local colleges and schools with work placements or traineeships, internships and apprenticeship schemes;
  - Supporting and working with the local community; and
  - Reducing environmental impact.
- 9.2 This requirement will be subject to monitoring as part of the contract management arrangements and providers will need to include detailed information in their annual monitoring report.



10. **Crime and Disorder Act Implications**

10.1 None.

11. **Human Rights Implications**

11.1 None.

**Background Papers:** None

**Contact Officer:** Stuart Gibbons, Strategic Market Development Manager, 0330 222 6218