

REPORT TO:	Cabinet 20 June 2016
AGENDA ITEM:	15.3A
SUBJECT:	Award of Independent Fostering Agencies Framework
LEAD OFFICER:	Paul Greenhalgh, Executive Director People
CABINET MEMBER:	Cllr Alisa Flemming, Cabinet Member for Children, Young People and Learning
WARDS:	All

CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON:

The procurement of the new Independent Fostering Agencies (IFA) 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.

Due to families experiencing difficulties the Council has a duty to provide appropriate care for a child or young person who have become looked after and are not able to continue to live with their families. The appointment of the Independent Fostering Agencies into this Framework will ensure that our Children Looked After are provided with a stable foster care provision offering a safe, caring, protective, healthy and nurturing environment.

The development of the IFA Framework supports the achievement of a number of corporate priorities and enables the Council to meet key aspirations included in the Community Strategy 2013-18: to protect the most vulnerable and to enhance the life chances of Looked After Children.

FINANCIAL IMPACT

The maximum value of the IFA framework is £69.9m, and spend in 2015/16 was £12.8m. Work is being undertaken to reduce costs and this may be subject to further change depending on demand and following the completion of negotiations with the Home Office regarding the rate paid to Croydon and the changes likely to take place with the new dispersal arrangements proposed for UASC's.

The framework approach in this report anticipates a saving of up to 10% on current costs.

KEY DECISION REFERENCE NO. 18/16/CAB: This is a Key Decision as defined in the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Strategic Overview Committee by the requisite number of Councillors.

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

1.1 The Cabinet is asked to approve the establishment of a framework agreement for the delivery of independent fostering placements for looked after children and the appointment of the providers to the Lot 1 Standard Placements, Lot 2 Sub-lots Specialist Placements (and their respective Reserve Lists) detailed in the associated Part B report on this agenda for a term for a term of three (3) years with an option to extend for a further one (1) year.

1.2 The Cabinet is asked to note that the names of the successful providers will be released once the appointments to the framework have been agreed and implemented.

2. EXECUTIVE SUMMARY

2.1 The Council has undertaken a tendering exercise with the aim of establishing a framework agreement ('Framework Agreement') to deliver more efficient commissioning arrangements for looked after children placed with external Independent Fostering Agencies (IFAs). The Framework Agreement will enable Croydon to secure availability of placements including those obtained locally and within a 20 mile radius with the aim of achieving better outcomes for our looked after children population.

2.2 The current contracts awarded under the existing framework arrangements will expire on the 31st July 2016 and will align to the planned implementation of the new Framework Agreement that will be in place by the 1st August 2016. The re-procurement of services through contracts awarded under the new Framework Agreement is designed to be flexible enough to meet future changing service needs and to be able to adapt to the new requirements for fostering placements.

2.3 The procurement strategy for IFA Services was approved by Cabinet on the 16th March 2015 (Min A47/15,1.3(2)) and a strategy update was later approved by the Cabinet Member for Children, Young People and Learning under the delegated authority given by the Leader of the Council (decision reference no. 50/15/CYPL). This included changes to the tender evaluation approach.

2.4 The purpose of this report is to advise the Cabinet of the tenders received and the evaluation undertaken, further to which the recommendation is made for establishment of a Framework Agreement for the delivery of independent fostering placements for Children and Young People Looked After.

CCB Approval Date	CCB ref. number
08.06.2016	CCB1143/16-17

3. DETAIL

- 3.1 The commissioning of high quality Independent Fostering services through providers on the Framework will assist the Council in meeting its statutory duty under Section 20 of the Children Act 1989; 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.
- 3.2 The new Framework Agreement for the provision of IFA placements will support the Council in securing a wider choice of external fostering placements and ensuring a diverse and quality assured market with clear agreed pricing structures. This will allow the service to continue to maintain a reduction in the number of residential placements and create greater choice and flexibility in the range of provision in the borough.

Procurement Approach

- 3.3 The approach taken for this procurement was to advertise for providers to tender for a new Framework Agreement that will provide IFA placements for children who are in need of standard and specialist placements. The Council intends to procure only new placements for independent fostering services through the Framework Agreement without affecting any existing placements. This will ensure that the stability of placements is maintained for all children looked after who are in their existing independent fostering placements.
- 3.4 The services within the Framework Agreement have been divided into two Lots based upon different categories of need as described below:
- Lot 1 (Standard Placements) - Standard placements for Children Looked After who are in need of core services that include the delivery of supervised care and accommodation 24 hours a day, seven days a week, 365 days a year for each looked after child placed with them.
 - Lot 2 (Specialist Placements) - Specialist placements for Children Looked After who are in need of specialist services including children with complex and challenging needs. Lot 2 (Specialist Placements) is further divided into 3 specialist sub-lots, as follows:
 - Sub-Lot 1: Parent and Child placements
 - Sub-Lot 2: Complex needs and challenging behaviour
 - Sub-Lot 3: Remand
- 3.5 Providers who tendered have been recommended for appointment to the relevant Lots on the Framework, on the basis of their ability to satisfy the Council that they could meet the qualitative requirements of the Service Specification and on their pricing using an evaluation methodology of 60% Price and 40% Quality.

- 3.6 The procurement approach has utilised and built on the Ofsted regulatory framework, which ensures compliance with the National Minimum Standards for Fostering Services as well as other robust local quality measures. Compliance with the Council's mandatory requirements and minimum quality standards were specified in the eligibility and subsequent award criteria of the tendering process. This 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. Additionally, the quality will be assured through robust monitoring of independent fostering placements within the Framework.
- 3.7 The Tenderers meeting the Council's selection requirements of (a) being the highest scored tenders in order of their MEAT scoring and (b) having achieved an Ofsted rating of "Good" and "Outstanding" are recommended to be appointed under the Framework Agreement, respectively 30 Tenderers for Lot 1 and 15 Tenderers for each Lot 2 Sub-lot
- 3.8 Reserve Lists for Lot 1 (Standard Placements) and for each of the Sub-Lot within Lot 2 (Specialist Placements) have been established in accordance with para 3.8 for the purposes of ensuring that there is a pre-approved shortlist of qualified providers who may become eligible for call-off under the relevant Lot/Sub-Lot if there is a change in providers' Ofsted ratings (as detailed in 3.9) during the term of the Framework Agreement.
- 3.9 Those tenderers who have met the selection requirements for appointment to the Framework Agreement, and (a) who did not have a score in the top 30 (for Lot 1) and 15 (Sub-lot 1,2,3) highest scoring Tenderers but have an Ofsted rating of "Good" or "Outstanding"; and/or (b) who did not have a score in the top 30 highest scoring Tenderers and have an Ofsted rating of "Requires Improvement" are appointed to the Framework Agreement in order of their MEAT scores as a "reserve" list, with Tenderers rated "Good" or "Outstanding" placed ahead of those Tenderers achieving a lower Ofsted rating – which was made known to all bidders during the course of the tender process.
- 3.10 The eligibility of providers appointed to this Framework Agreement is linked to the provider's ability to maintain "Good" or "Outstanding" Ofsted ratings during the lifetime of the Framework Agreement. Should an Eligible Provider's rating drop to below "Good", they will cease to be eligible for call-off and fall into the reserve list within Lot 1 or the Sub-Lots within Lot 2 (as appropriate). That provider will maintain a position on the reserve list within the relevant Lot/Sub-Lot under the Framework Agreement based on their original MEAT score for appointment to the Framework Agreement (subject to the process for annual re-refresh of the Framework Agreement detailed below).
- 3.11 The Framework agreement sets out an annual refresh procedure that will result in the re-ranking of the providers within each Lot/ Sub-lot (including the reserve lists within the Lots/Sub-Lots), that may be undertaken at the discretion of the Council. The refresh process is open to all of those providers who have been appointed to the Framework Agreement, whether as Eligible Providers or on the reserve lists for the Lot/Sub-Lots. The refresh will be set out in the form of a mini- competition via the London Tenders Portal and will enable all providers (both Eligible Providers and those ranked in the reserve lists) on the

Framework Agreement to update their pricing schedules. Prices for the refresh process will be evaluated using the same methodology used for evaluation of price in relation to appointment to the Framework Agreement. Tenderers will not have the opportunity to change the Lots or sub-lots which they have previously applied for.

3.12 The operational implementation of the Framework Agreement will take place through the use of the Call-Off Procedures which sets out how individual placements will be made for each Lot/ Sub-lot. Only those providers who have an Ofsted rating of "Good" or "Outstanding" will be eligible for award of call-offs under the Framework Agreement. The Provider's Ofsted rating will be monitored throughout the duration of the Framework Agreement and those eligible for Call-Off must continue to hold an Ofsted rating of "Good" or "Outstanding" at the time of call-off of the individual placement. When a new placement is required the Council's intention is to approach the Eligible Providers on the relevant Lot/Sub-Lot in the first instance in the order described above to enable them to have the earliest opportunity to propose a care package. The Call-off standard approach for standard and specialist placements varies as described below:

- For the standard placements, two pools of eligible providers will be established depending on the average weekly price being below or above £730 per week, in which case the Council will first of all approach the first "pool" offering a weekly price of below the £730 per week. If, no suitable matches are found within this pool of Eligible Providers, then the Council will approach the second "pool" of Eligible Providers offering a weekly price of £730 per week and above.
- For specialist placements the Council will approach all of the 15 Eligible Providers within each Sub-lot, (according to the Sub-Lot to which the placement relates), and the assessment of the responses will be undertaken in order of pricing with the lowest tendered price for appointment to the Framework Agreement being evaluated first. If no suitable match is found with the lowest priced Eligible Provider then the evaluation is completed for the 2nd lowest priced Eligible Provider and so on.

The Call-Off procedures enable the Council to prioritise exceptional circumstances and particular requirements (at the Council's discretion) through 'mini-competitions'.

3.13 In all cases, the Council will set out the criterion for award of the call off and Individual Placement Agreement, which criterion are based on the best suitability to the needs of the child. Through the conclusion of the placement matching process the best match is identified to the specified criteria including location, ethnicity, experience, other young people currently in placement either children looked after or birth children (household composition).

3.14 The procurement approach detailed above is expected to offer greater flexibility in operating the Framework Agreement, which in turn will enable the Council to obtain services at the right quality and at a competitive price

3.15 Tender and contractual documentation were the subject to external legal advice and describe the process for refreshing the Framework Agreement and

awarding call off contracts. Tenderers are given no guarantee as to the total volume or value of the Services that could be ordered under the Framework Agreement, or as to the actual annual value of the contracts awarded under the Framework Agreement.

- 3.16 The Terms & Conditions and Service Specifications under the framework have been subject to a robust development process. They were developed using the London Care Placement Model Contract 2014 and have been updated to reflect the Council's requirements.
- 3.17 The overall procurement approach for this service recognises the importance of social value and enables local providers to participate in the provision of fostering placements. It has also encouraged the market response in creating apprenticeship and job opportunities for local people and further investment staff training that will in turn enhance the advice and support given to children and young people looked after in the borough. All providers were required to commit to paying any person employed or engaged in the performance of the services a rate at least equivalent to London Living Wage (LLW).

Evaluation

- 3.18 The tender exercise was undertaken in line with a single-stage 'Open' procurement process. The Tender opened on the 16th November 2016 with the deadline for submission on the 18th January 2016. Tenders were received from a total of 42 providers for the Lots/Sub-lots, noting that tenderers have submitted tenders for any number of Lots/Sub-lots.
- 3.19 Tenderers were required to submit responses to the standard suite of PQQ questions. A number of questions set out under Section 6 Additional Technical and Professional Ability Questions were scored by the evaluation panel of three officers. Ofsted inspection reports and ratings were reviewed at this stage. Of the 42 tenders received, only one tender failed at this stage on the basis of receiving a low health score.
- 3.20 The 41 tenderers who successfully passed the initial evaluation were then subject to a further qualitative evaluation of their ability to meet the Council's service requirements. Tenderers applied to be considered for any or a combination of Lot 1, and Lot 2 Sub-lot 1, 2, 3 as presented below:

- Lot 1 (Standard Placements) - 38 tenders
- Lot 2 Sub-Lot 1: Parent and Child placements – 35 tenders
- Lot 2 Sub-Lot 2: Complex needs and challenging behaviour – 33 tenders
- Lot 2 Sub-Lot 3: Remand – 23 tenders

- 3.21 Of the 41 tenders, 5 tenderers failed on quality across the Lots/ Sub-lots as they did not meet the Council's minimum standards, as detailed below:

Lot 1 (Standard Placements) - 2 tenders
Lot 2 Sub-Lot 1: Parent and Child placements – 3 tenders
Lot 2 Sub-Lot 2: Complex needs and challenging behaviour – 2 tenders
Lot 2 Sub-Lot 3: Remand – 1 tender

- 3.22 Tenderers were required to submit separate method statements for each of Lot 1 (Standard Placements) and Lot 2 (Specialist Placements) and separate prices for each of the individual Sub-lots within Lot 2 (Specialist Placements). Tenderers were notified of the weighting that each quality criterion would carry. The evaluation of Tender Response was carried out separately for Lot 1 (Standard Placements) and Lot 2 (Specialist Placements), and the award decisions for Lot 1 (Standard Placements) and each of the Sub-Lots within Lot 2 (Specialist Placements) was independent of each other.
- 3.23 Pricing for each lot and sub lot (Standard, Specialist – Parent and Child, Specialist – Complex Needs, Specialist – Remand) was evaluated separately. For the purpose of evaluation and entry onto the Framework Agreement prices submitted by Tenderers was averaged when prices were provided for various age groups.
- 3.24 The tender assessment process for appointment to the Framework Agreement upon conclusion resulted in the development of 4 lists of successful Tenderers for appointment to each of Lot 1 (Standard Placements) and each of the Sub-Lots within Lot 2 (Specialist Placements) in order of the scores they have achieved for the relevant Lot/Sub-Lot following the MEAT assessment.

The Evaluation Panel

- 3.25 The evaluation panel was made up of five people from the Children Social Care Team. The Panel was chaired by the Delivery Manager for Fostering and Business Relationships Team. An engagement event was undertaken with a representative group of looked after children receiving services from the Council's Permanency Teams and who had experience of a fostering placement. Young people assessed a number of tenders and provided their views on provider's responses on a number of questions relating to the quality assurance (seeking children's views on service development and review) and transition. It was felt that the involvement of children looked after representatives was very important in this process to ensure their voices were heard.
- 3.26 Each evaluator evaluated every qualitative submission independently and then the scores were brought together at moderation panels. The moderation panel included the above five evaluators and representation from SCC – Category Manager and Contracts Manager for Children Social Care. A moderated score was agreed for each tender question. The Quality Assessment was subject to a minimum score threshold and tenderers who did not meet the minimum score of 3 out of 5 for any question were rejected (with the exception of the question relating to the participation in the Premier Supply Programme).

4. CONSULTATION

- 4.1 The procurement of the IFA was undertaken in consultation with the existing providers of services in September 2014 which had provided an opportunity to explore solutions for the development of Croydon Challenge programme and the design of the new framework.

4.2 Following further engagement with representatives of our looked after children population during the tendering process, the young people's views were sought on a sample of providers' response and have informed the tender evaluation process.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 The table below shows the current spend per annum for both local and UASC placements and the potential anticipated 10% per annum saving.

Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2016/17	2017/18	2018/19	2019/20
	£'000	£'000	£'000	£'000
Expenditure based on 15/16 costs	12,800	12,800	12,800	12,800
Anticipated 10% savings	1,280	1,280	1,280	1,280

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.

If demand increases above the budget action will need to be taken to manage the spend to ensure an overspend does not incur or if an overspend is to occur action will need to be taken within the whole of the People Department to ensure costs remain within the total budget allocation.

5.3 Risks

There is a risk that the modelling assumptions are different due to changes in demand and placement rates varying. If this occurs action will need to be taken within the department to manage the costs.

5.4 Options

The service has considered the option of a Dynamic Purchasing system; and in the medium term this is seen as 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 to move across the wider Peoples Department in the future

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 new framework for the independent fostering provision is targeting cost savings of up to 10% per annum. This budget is currently overspending so will not initially realize any budget savings, but will help reduce overspends that have previously been incurred.

Approved by: Lisa Taylor – Assistant Director Finance and Deputy S151 Officer

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

- 6.1 The Acting Solicitor to the Council Comments that the procurement process as detailed in this report seeks to support the Council's duty to achieve Best Value pursuant to the Local Government Act 1999. The appointment to the Framework Agreement or the Tenderer's position on the Framework Agreement offers no guarantee as to the total volume or value of the Services to be ordered under the Framework Agreement, or as to the actual annual value of the contracts awarded under the Framework Agreement.

Approved for and on behalf of Gabriel MacGregor Acting Council Solicitor and Acting 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**

- 8.1 A full equality analysis of the IFA new Framework was undertaken in accordance with corporate requirements indicating that there are no adverse impacts on any protected groups that would result in a change to the commissioning of the proposed services. The analysis identified that the proposed procurement activity is likely to have a positive impact on equality groups that share a protected characteristic. There is no projected reduction in commissioned placements affecting access through the new Framework. It is in fact expected to result in an increased number and quality of placements, especially for those with highly challenging and complex needs including children and young people with disabilities.

9. ENVIRONMENTAL IMPACT

N/A

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 Ensuring the welfare and safety of children by providing the right type of care and support is expected to have positive implications for children and young people. It is anticipated that this care and support will also significantly contribute to community safety by reducing the potential for young people to be involved in anti-social behaviour and or criminal activity.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 The Council current contracted arrangements expire on the 31st July 2016. There is a need to re-procure the new services to ensure the Council is compliant with procurement legislation and to ensure the continuity of provision from August 2016.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 Options were summarised in the Procurement Strategy for Independent Fostering Agency Framework. It was agreed to take the framework agreement forward through the proposed procurement process as the best solution for managing the market for independent fostering services.

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Background documents:

Published previously – Cabinet meeting 16.03.15:

Procurement Strategy for Independent Fostering Agency Framework

<https://secure.croydon.gov.uk/akscroydon/users/public/admin/kabatt.pl?cmte=CAB&meet=34&href=/akscroydon/images/att5196.docx>