

REPORT TO:	Cabinet Member for Children, Young People and Learning
SUBJECT:	South London Commissioning Programme Residential and Independent Fostering Agency Provision For Children Looked After Tender Award Report
LEAD OFFICER:	Rob Henderson, Executive Director Children, Families and Education Nick Pendry, Director of Children Family, Family Intervention and Children’s Social Care
CABINET MEMBER:	Councillor Alisa Flemming Cabinet Member for Children, Young People & Learning and Councillor Simon Hall Cabinet Member for Finance and Resources
WARDS:	All
<p>CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON</p> <p>The residential and foster care service provision will contribute to a number of corporate priorities including:</p> <ul style="list-style-type: none"> • Children and young people thrive and reach their full potential • Children and young people are safe, healthy and happy, and aspire to be the best they can be • Safeguarding children and young people and improve their outcomes • Good, decent homes ensuring that all people including children have the opportunity to access a suitable home <p>The proposed services for children looked after will facilitate the realisation of the Council’s Equality Strategy objectives:</p> <ul style="list-style-type: none"> • To improve outcomes for children by providing a better start in life • To achieve better learning outcomes for Children and Young People (CYP) by narrowing the attainment gap for those who are vulnerable • To achieve better outcomes for children and young people by increasing the proportion that say they are listened to and able to influence • To improve support for vulnerable people by making it easier for them to have more choice and control over their lives <p>The Children Act 1989 sets out the duties of local authorities to provide a sufficiency strategy to meet the needs of the Children Looked After (CLA) population i.e. have a range of services that meet the needs of some of the most vulnerable children in society.</p>	

The Approved Provider Panel (APPA) for the provision of services for CLA and young people is a means to meeting the Council's statutory duty and ensuring sufficiency of provision.

The procurement exercise will ensure that the services are provided in accordance with:

- The Children Act 1989
- The Children and Families Act 2014
- Promoting the health and wellbeing of looked after children - DfE, DoH
- Children's Homes Regulations including the quality standards 2015
- National Minimum Standards for Fostering and Residential Care services
- Children's Social Care Standard Outcomes Framework

FINANCIAL IMPACT

The contract award report is for the establishment of an Approved Provider Panel Agreement for residential and independent fostering agency placements for children looked after by the local authority. The establishment of the panel will increase placement choice, improve placement stability, and create greater price competition between providers. All of these factors should reduce the average cost of placements for the Councils accessing the panel.

The DfE Innovation Fund grant was secured for the development and implementation of a multi-borough commissioning solution for CLA placements in South London. The grant covers the cost of establishing the Approved Provider Panel and is supplemented by an annual contribution of £15,000 for each local authority named in the tender.

The Croydon Council residential care placements budget (2019/20: £3.258 million) is under significant financial pressure due to increasing numbers of children in high cost residential placements. The Croydon Council IFA budget (2019/20:£5.619 million) is also under considerable pressure. Both overspends are currently being contained within the overall Council budget. A number of initiatives are in place to reduce the number and cost of children looked after in residential care and IFA placements in Croydon, of which the development and implementation of this proposal is a key element.

FORWARD PLAN KEY DECISION REFERENCE NO.: 1120CYPL

The Leader of the Council has delegated to the Cabinet Member for Children, Young People and Learning the power to make the decisions set out in the recommendations below.

1. RECOMMENDATIONS

- 1.1 The Cabinet Member for Children, Young People and Learning in consultation with the Cabinet Member for Finance and Resources are recommended by the Contracts and Commissioning Board to:

1.1.1 Approve the award contracts for admittance to the Approved Provider Panel Agreement for the 2 Lots;

- **Lot 1 – Residential Child Care Provision;**
- **Lot 2 – Independent Fostering Agency Provision.**

To the providers as detailed in the Part B report on this report, for a contract term of three years, with an option to extend for up to a further 5 years, in periods of 2+2+1 at a maximum overall agreement value of £700,000,000 for the whole of the SLCP member boroughs, of which Croydon's maximum agreement spend will be £90 million based on a projected annual budget of approximately £11.2 million per annum.

1.1.2 To note that the names of the successful providers will be released once the decision has been implemented.

2. EXECUTIVE SUMMARY

2.1 The South London Commissioning Programme (SLCP) has been established to collaborate across borough boundaries to improve outcomes for children and young people with SEN and those that are looked after.

2.2 The Approved Provider Panel is an agreement with successful providers that will enable the contracting authorities to place orders for services without running lengthy tendering exercises. The Approved Provider Panel is intended to achieve economies of scale through large volume buying across multiple South London Boroughs.

2.3 The Approved Provider Panel Agreement has been established by the South London Commissioning Programme Children Looked After (CLA) Group, consisting of Croydon, Bexley, Royal Borough of Greenwich, Merton, Lewisham, Lambeth, Southwark and Sutton.

2.4 Based on the 2017-18 actual spend figures, the combined expenditure across the sub-region is approximately £88 million per annum bringing the total estimated spend through the Approved Provider Panel to approximately £700 million over an 8-year period.

2.5 This report seeks Cabinet approval for the award of contracts for admittance to the Approved Provider Panel for residential and independent foster agency care provision for a **3-year term with the option to extend for a further 5 years (2 + 2 +1 years)**.

2.6 The Croydon Council framework for independent fostering agency placements ends in July 2020. The APPA provides an opportunity for Croydon Council to replace this framework and continue to secure placements for children looked

after with independent fostering agency providers using the new arrangements set out in this report.

- 2.7 There are currently 18 IFA providers on the existing Croydon IFA framework which ends in July 2020. Croydon Council secures residential care placements through spot purchasing.
- 2.8 The APPA will have forty residential care and IFA providers. These providers will be accessible to Croydon Council from April 2020. The volume of providers will increase following any future APPA refresh.
- 2.9 The procurement strategy was approved in September 2019 under delegation during the summer recess. Decision reference: 3519CYPL.
- 2.10 As the Full Cabinet is not meeting in April 2020, the Leader of the Council has delegated to the Cabinet Member for Children, Young People and Learning the power to make the decisions set out in the recommendations below. This will allow for the APPA to 'go live' in May 2020, in line with the expectations of the DFE Innovation Fund and member boroughs of the SLCP.
- 2.11 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB Approval Date	CCB ref. number
April 2020	CCB1561/19-20

3. BACKGROUND

- 3.1 The South London Commissioning Programme (SLCP) is a partnership of 12 South London Boroughs (London Boroughs of Merton, Croydon, Sutton, Bromley, Bexley, Lewisham, Wandsworth, Richmond, Lambeth, Southwark and the Royal Boroughs of Kingston and Greenwich) which is hosted by Croydon Council. The SLCP has responsibility for collaborating on the strategic commissioning of good quality placements for children and young people with Special Educational Needs & Disabilities and those who are Looked After.
- 3.2 For this procurement, participating boroughs are; Croydon, Merton, Sutton, Bexley, Lewisham, Lambeth, Southwark and Greenwich. Other members of the SLCP are able to access the APPA at a later date.
- 3.3 The aim of the Partnership is to develop regional commissioning models which operate at sufficient size to provide economies of scale and a varied range of placement options. This approach seeks to achieve the following outcomes;
- Increased placement stability;
 - Children matched to the right placements to meet their needs;
 - Opportunities to shape the market to deliver outcomes;
 - Positive interventions for CLA through innovative joint projects, and;

- Value for money for local authorities.

Procurement Process

- 3.4 The SLCP held 2 provider events; a networking and briefing event on 22 May 2019 and a pre-procurement market engagement event on 11 September 2019. Both events were held at the Croydon Conference Centre, with a total of 134 suppliers in attendance. Feedback received was positive.
- 3.5 The APPA is being established under Regulations 74 to 77 of the Public Contracts Regulations (PCR) 2015 'Light Touch Regime' (LTR). The tender process was aligned to the standard Open Procedure.
- 3.6 Accordingly, an OJEU contract notice and Contracts Finder advert were submitted on October 10, 2019. The names of the SLCP partners were set out in the Contract Notice as users of the Approved Provider Panel Agreement. The APPA will also be available to any future boroughs that join the SLCP. New members will be named in any future Contract Notices.
- 3.7 The opportunity was also advertised on Value Croydon and shared with partner boroughs for publication on their websites. Notifications were sent to provider lists from the eight local authorities which are part of the SLCP Children Looked After consortium.
- 3.8 Tender documents were made electronically available on the London Tenders Portal and accessible to interested parties for approximately thirty days. The tender submission deadline was Monday 11th November 2019.
- 3.9 The Independent Children's Home Association (ICHA) and the Nationwide Association of Fostering Providers (NAFP) both advertised the tender opportunity to their members.
- 3.10 The tender documents provided clear guidance and instructions to the market setting out how the Approved Provider Panel and call-offs will work.
- 3.11 151 expressions of interest were registered on the London Tenders Portal from a range of providers but only 92 providers submitted a completed response document by the tender submission deadline.
- 3.12 The tender is divided into 2 Lots with sub-lots as follows;

Lot	Service Area	Sub-Lot
Lot 1	Residential Care	1a: Standard Placements. 1b: Specialist Placements.
Lot 2	Independent Fostering Agency	2a: Standard Placements. 2b: Specialist Placements. 2c: Emergency Placements.

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Evaluation

- 3.13 The tender response document was sectioned into three distinct areas; Selection Questionnaire (SQ) Compliance, quality and price.
- 3.14 Commissioners, service and operational leads from participating boroughs are represented on the Children Looked After Operational Group to develop practice and oversee the tender process. Croydon, as the lead authority, coordinated this process. The project group provided expertise for the development of the service specification, quality questions, and pricing structure for the Approved Provider Panel.
- 3.15 An evaluation panel was established with social care professionals from member boroughs of the South London Commissioning Programme. Due to the number of bids received the SLCP also employed three social care professionals with a strong background in tender evaluation and children looked after services to carry out evaluations.
- 3.16 **Safeguarding:** As part of the tender process, the SLCP has sought to ensure high safeguarding standards through the following requirements;
- **Provider Registration With Regulatory Body:** SLCP is only considering service providers who are registered with the appropriate regulatory body. Providers in England are required to be Ofsted registered and have been inspected and judged to be 'Outstanding' or 'Good'. For providers with multiple residential sites, at least 70% of their sites must have an Ofsted judgement of good or outstanding. Providers in Scotland and Wales are required to be registered with the respective Care Inspectorates. All registrations have been verified as part of the due diligence process.
 - **Tender Method Statement:** The tender response document included a method statement to assess the safeguarding and child protection policies, practices and procedures of service providers. The method statement was designed jointly by a cross section of designated service leads, commissioners and placement managers from partner boroughs.
 - Bidders were requested to demonstrate how safeguarding is embedded in their systems and processes through their policies and mandatory training schedules. Responses were also reviewed by evaluators to ensure that bidders' narratives were sufficiently supported by evidence.
 - **Safeguarding Protocols in Service Specification:** The tender service specification sets out a requirement for Providers appointed to the APPA to take the necessary action to ensure children's safety and well-being in compliance with the law and in line with the London

Safeguarding Children Board: Child Protection Procedures, irrespective of their location. This includes the requirement to appoint a designated safeguarding lead to whom these allegations are reported.

- **References:** The SLCP is taking references for all providers who have applied to join the APPA. In the event that any safeguarding concerns are raised in the references, these are investigated.
- **Existing Placements:** Local authorities will not move placements if providers lose their Good or Outstanding Ofsted rating, unless absolutely necessary however such providers will not receive new placements. Additionally, existing placements will not be changed as a result of the APPA being established.

3.17 The standard SQ compliance questions covered the following;

- Grounds for mandatory or discretionary exclusion.
- Economic and financial standing.
- Insurance requirements.
- Relevant experience and contract examples.
- Requirements under Modern Day Slavery Act 2015.
- Requirements under Public Sector Equality Duty.
- Health and safety requirements.
- General Data Protection Regulations (GDPR) and Information Management requirements.

3.18 Finance officers conducted the standard financial appraisal, while tender compliance for other requirements was carried out by procurement and project support officers. This approach ensures probity and that the most economically advantageous suppliers are admitted to the Approved Provider Panel.

3.19 Providers appointed to the Approved Provider Panel were required to secure a minimum score of 3 out of 5 for all method statements. Method statements were as follows;

- Service Delivery, Including Outcomes for CYP, workforce and service user engagement. 25%.
- Safeguarding, Risk Management and Data Protection. 25%.
- Social Value. 10%.

3.20 Panel members individually assessed each qualitative submission and all scores were moderated by the panel. All moderation meetings were chaired by the South London Commissioning Programme with support from a procurement professional to ensure consistency. All applicants that have passed the Selection Questionnaire and have met the minimum assessment criteria are recommended for admission to the Approved Provider Panel.

- 3.21 Suppliers submitted prices based on weekly rates for each category bid for. The total price weighting of 40% is apportioned to each of the Sub-Lots. Bidders were instructed to submit tender prices fully inclusive of all costs. There was no maximum or minimum price requirement.
- 3.22 The Quality/Price evaluation ratio is 60%/40% to ensure that providers submit competitive prices without compromising quality. All providers who have met the quality and price criteria as well as the compliance elements of the tender will be appointed to the APPA.
- 3.23 Contract management arrangements will involve a lead local authority for each APPA provider. Regular visits will be carried out with resources and information shared between placing authorities. This will result in a more consistent, effective and streamlined contract management process.

Results from the Evaluation Process

- 3.24 A summary of the results of the evaluation process are set out below;

LOT 1 – Residential Care

	Total Bids	Total Passed SQ Compliance and Quality	Total for Admission to APPA
Sub-Lot: Standard	36	11	11
Sub-Lot: Specialist	21	10	10

LOT 2 – Independent Fostering Agency

	Total Bids	Total Passed SQ Compliance and Quality	Total for Admission to APPA
Sub-Lot: Standard	60	29	29
Sub-Lot: Specialist	60	31	31
Sub-Lot Emergency	46	23	23

Tender Refresh in 2020

- 3.25 The number of providers bidding as part of the tender was lower than had been anticipated. The number has been further reduced by the requirements of the tender process in terms of compliance and quality.
- 3.26 Some providers have indicated that mandatory discounts of 5% for placement stability, bulk, and siblings, resulted in them deciding to not participate in the tender process. Other providers have indicated that they have increased fee levels to reflect these mandatory discounts.
- 3.27 In order to admit additional providers to the Approved Provider Panel Agreement it is the intention of the South London Commissioning Programme to refresh the APPA within four months of this tender award being completed.
- 3.28 The APPA refresh will require a further tender process in 2020 which will include a revised pricing schedule to better achieve the aims of the partnership. Existing providers on the APPA will have the option to submit revised prices based on the new pricing schedule. The SLCP has received legal advice to confirm that this approach is permissible subject to amendments to APPA contract terms.
- 3.29 It became apparent from tender evaluation that for most providers, further clarity around GDPR/IT compliance would be necessary for the refresh therefore the SLCP will provide guidance with the tender documents to raise the quality of their practice in this area.
- 3.30 In accordance with regulation 11.3.3 of the Council's Tenders and Contracts Regulations approval will be sought from CCB for any appointment of new providers to the APPA following each future refresh of the APPA.
- 3.31 Detailed information of quality and price scores for each bidder are summarised in Part B of this report.

4. CONSULTATION

- 4.1 A series of children and young people events have been undertaken by the SLCP's engagement support officer. There are focus groups established in boroughs across South London. Young people have reported feeling listened to and that engagement approaches have been friendly. Continuous engagement will be undertaken to capture feedback and input from children and young people.
- 4.2 Work will continue to engage hard to reach young people and, where appropriate, these young people will be signposted to relevant services and activities in their area. Engagement officers have also visited providers to engage young people.
- 4.3 Service users have helped to design the 'All About Me' and 'All About Us' profiles that will be used to support the placement process in future. This will ensure good quality information is available to young people in advance of a placement being completed. It will also enable young people to create their

own profiles to support their placement experience and improve placement decision-making.

5. PRE-DECISION SCRUTINY

5.1 This report has not gone to a Scrutiny meeting.

6. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

6.1 The Croydon Council residential care placements budget (2019/20: £3.258 million) is under significant financial pressure due to increasing numbers of children in high cost residential placements . The Croydon Council IFA budget (2019/20:£5.619 million) is also under considerable pressure. Both overspends are currently being contained within the overall Council budget. A number of initiatives are in place to reduce the number and cost of children looked after in residential care and IFA placements in Croydon, of which the development and implementation of this proposal is a key element.

6.2 Projected Expenditure 2019-20 to 2022-23 for Residential Care Placements and Independent Fostering Agency Placements

Independent Fostering Agency	Current year	Medium Term Financial Strategy – 3 year forecast		
	2019/20	2020/21	2021/22	2022/23
Revenue Budget available	5,619,000	4,769,000	4,769,000	4,769,000
Expenditure	7,260,658	7,260,658	7,260,658	7,260,658
Forecast	1,641,658	2,491,658	2,491,658	2,491,658

Residential Care	Current year	Medium Term Financial Strategy – 3 year forecast		
	2019/20	2020/21	2021/22	2022/23
Revenue Budget available	3,258,000	6,458,000	6,458,000	6,458,000
Expenditure	5,906,456	5,906,456	5,906,456	5,906,456

Forecast	<u>2,648,456</u>	<u>(551,544)</u>	<u>(551,544)</u>	<u>(551,544)</u>
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- 6.3 **Risks:** There are no direct financial risks associated with the establishment of the APPA. There is no obligation on member boroughs to secure placements from the providers on the APPA.
- 6.4 The inclusion of 5% mandatory discounts for sibling placements, placement stability and bulk purchases has created an upward pressure on fee levels due to bidders deciding to front load fee levels to compensate for the discounts and future inflationary pressures. Revised discount structures will be considered in any future refresh of the APPA.
- 6.5 There is a risk that due to the relatively small number of providers being recommended for admittance to the APPA from this tender that member boroughs will need to continue to spot purchase for some placements. This will be partly addressed by a tender refresh which will target new bidders and will seek improved tenders from bidders that were unsuccessful on this occasion.
- 6.6 Options: This approach enables the council to contain costs by reducing reliance on spot purchase placements.
- 6.7 **Future savings/efficiencies:**
- Better value for money through economies of scale with eight London boroughs.
 - Reduction in the number of procedures the contracting authorities have to run, therefore decreasing the time and costs linked to carrying out procurement.
 - A more streamlined, standardised and efficient referral process.
 - A reduction in the number of spot purchases made by participating boroughs.
 - Potential savings through joint contract management of the sector.
 - Opportunities to address gaps in the market to reduce costs and improve the service offer.

Approved by: Kate Bingham: Head of Finance, Finance Investment and Risk

7. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 7.1 The Director of Law and Governance comments that the legal considerations relevant to the recommendation are contained in the body of this report.

Approved by: Sean Murphy, Director of Law and Governance

8. HUMAN RESOURCES IMPACT

- 8.1 All existing arrangements and contracts with residential and foster care agencies are expected to continue without disruption to service provision therefore no adverse implications are anticipated for staff currently involved in delivering services across the region.
- 8.2 This procurement exercise does not propose changes to service delivery beyond what is being undertaken although providers may have to adapt their delivery approach in order to achieve expected service outcomes.
- 8.3 The expectation is for Placement Teams, Access to Resources Teams and Social Workers to refer new and future placements to providers who qualify to be appointed to the Approved Provider Panel.
- 8.4 Approved Provider Panel providers may need to recruit additional staff with the relevant skills and qualifications to meet the requirements and demands of the contracting authorities.
- 8.5 As a London Living Wage borough, all applicable contracts will include the requirement to pay the London Living Wage. The Living Wage Foundation Living Wage will apply to contracts in other parts of the country.
- 8.6 There will be no TUPE implications for Croydon through this procurement as residential care provision is currently procured through spot purchasing arrangements.

Approved by: Nadine Maloney, Head of HR; Children, Education and Families.

9. EQUALITIES IMPACT

- 9.1 An equality analysis of the SLCP CLA Project was undertaken in November 2018 to ascertain the potential impact the proposed change would have on protected groups. This concluded that a further equality analysis was not required for the following reasons;
- The change represents an improvement in the Council's current Residential and Independent Fostering Agency placements and commission processes.
 - There will be no change to the service provisions themselves.
 - Outcome based commissioning will lead to improved outcomes for CLA and Young People.

9.2 The proposed services for children looked after will facilitate the realisation of the Council's Equality Strategy objectives:

- To improve outcomes for children by providing a better start in life.
- To achieve better learning outcomes for Children and Young People (CYP) by narrowing the attainment gap for those who are vulnerable.
- To achieve better outcomes for children and young people by increasing the proportion that say they are listened to and able to influence.
- To improve support for vulnerable people by making it easier for them to have more choice and control over their lives.

Approved by: Yvonne Okiyo, Equalities Manager

10. ENVIRONMENTAL IMPACT

10.1 There are no direct environmental impacts.

11. CRIME AND DISORDER REDUCTION IMPACT

11.1 There are no crime and disorder reduction implications associated with the proposed recommendations and subsequent services.

12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

12.1 Admittance to the Approved Provider Panel Agreement is recommended for tenderers which have passed the requirements as set out in the tender documentation.

12.2 The establishment of the APPA will give the Council the opportunity to secure placements at a preferable rate in comparison to spot purchasing. By working with other member boroughs, the Council will be able to better understand and develop the market for residential care and independent fostering agency provision.

13. OPTIONS CONSIDERED AND REJECTED

13.1 Do nothing

The Council has a statutory duty to meet the needs of vulnerable children and young people including Children Looked After (CLA) and those with Child Protection Plans. Therefore this is not an option.

13.2 Establish a Standard Framework Agreement

A standard framework agreement does not allow for new providers to be admitted once established. A standard framework cannot be refreshed to ensure it continues to meet demand and attract the best providers throughout the life span of the framework. The structure of the framework cannot be changed in any way. This option was rejected by the South London Commissioning Programme Children Looked After (CLA) Project Board.

13.3 Establish a Dynamic Purchasing System (DPS)

The South London Commissioning Programme Children Looked After (CLA) Board agreed that the additional resources and costs required to implement and manage a DPS will not be a cost effective solution for the commissioning of Residential and Foster Care Provision. Therefore this option was rejected in a majority decision at the South London Commissioning Programme Children Looked After (CLA) Project Board meeting on 24 April 2019.

13.4 Continue to Spot Purchase Residential Care and Independent Fostering Placements.

The continued spot purchasing of residential care placements is likely to result in higher costs to the Council than those available through the APPA. Spot purchasing reduces a Council's capacity to secure services from a wide range of providers.

Croydon Council currently has a framework for independent fostering agency placements which ends in July 2020. Without alternative arrangements in place the Council will be required to secure all future placements via spot purchasing. This is likely to result in higher placement costs and less coordination of services on a sub-regional basis.

14. DATA PROTECTION IMPLICATIONS

14.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

YES

Once a placement is made the providers receive personal data on children and young people. This data is retained by the provider throughout the duration of the placement.

14.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

YES

The procurement was carried out under guidance from Croydon Council's Information Team. A specific question on GDPR and information security was included in the compliance section of the tender. Responses to this question

have been evaluated and moderated in order to ensure that all providers are compliant with the tender in this regard.

An updated DPIA has been reviewed and approved on behalf of the Council's Data Protection Officer in March 2020.

Approved by: Sarah Kelly, Corporate Solicitor, on behalf of Sandra Herbert, Head of Litigation and Corporate Law, Council Data Protection Officer

CONTACT OFFICERS: Sandra Asiedu, Procurement Delivery Specialist, South London Commissioning Programme (SLCP), 0208 726 6000 Ext 63622 and Paul Williamson, Strategic Programme Lead, South London Commissioning Programme, 07967 347643

APPENDICES TO THIS REPORT

None

BACKGROUND PAPERS:

Data Protection Impact Assessment