

## **Cabinet – 10 September 2014**

### **Children's Services Commissioning Plan 2014-17**

**Portfolio:** Councillor Cassidy, Children's services and education

**Service:** Children's Services

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

#### **1. Summary**

- 1.1 Childrens Services spend approximately £43 million externally each year (excluding distributions to schools and after income of £11 million a net expenditure of £32 million). Of the gross £43 million, £4 million is spent on Council Foster Carers (an internal service but payments made to individuals) and £7 million on agency staff. The remaining £32 million is split between £29 million on purchasing services for children across 207 contracts and £3 million on other goods and services through corporate contracts. A three year Commissioning Plan will ensure that a commissioning process for this spend is managed to deliver best value for money, that strategic 'make or buy' decisions are made by the approved body in a timely way leading on to planned procurement processes and lastly to ensure that there is no need for urgent action waivers resulting from poor planning.

#### **2. Recommendations**

- 2.1 That this Childrens Services Commissioning Plan 2014-17 is noted and that the Executive Director, in consultation with the Portfolio Holder, seeks further Cabinet approvals for specific procurement projects where appropriate.
- 2.2 That approval is given for the council to join regional/sub-regional framework contracts for these services:
- 2.2.1 Residential Care for Children from November 2014
  - 2.2.2 Independent Fostering Agency Care from November 2014, noting this may require significant spot purchasing if current providers are not on new framework
  - 2.2.3 Non-accommodation based services from April 2015
  - 2.2.4 Supported Accommodation, agree extension from November 2014 and to join a new framework from November 2015
- 2.3 That approval is given to extend the framework contract for the provision of contact services (the arrangements which promote and maintain contact for looked after children with their parents and siblings) from 12<sup>th</sup> December 2014 to

11 December 2015 and commence a procurement process in early 2015.

- 2.4 That approval is given for Childrens Services to commence a joint procurement with Adult Social Care of short break services for adults and children if it offers the best service options for children and best value to the Council, or if not, approval is given to commence re-procurement of existing short break services in early 2015.

### **3. Report detail**

#### **Three Year Commissioning Plan**

- 3.1 The Commissioning Plan has been developed to assure timely management of external spend, to ensure that a commissioning process is applied and approvals are obtained to recommence procurement and that procurement is completed prior to contract expiry. It will also advise the market of what the Council intends to commission and decommission during this period. The full working document Plan is a summary of the current 207 contracts on the Children's Services register, but also includes business critical contracts on other directorates contract registers (eg; Agency Staff and Paris replacement). Due to the planned spending reduction over the next 4 years, it is possible that some of these contracts will no longer be funded. However, this still requires planning as some contracts require lengthy notification on decisions to extend or terminate and these do not always fit with council budget setting.
- 3.2 The key commissioning projects with associated procurement undertaken and planned for the following three years are;

#### **2014-15**

| <b>Contract</b>  | <b>Purpose</b>   |
|--|--|
| 1. Independent Social Work assessments commenced July 2014                     | To provide quality assessments of Family and Friends Foster Carers and for Special Guardianship Orders which meet the child's timescales.  |
| 2. Assisted Transport contract awarded By Cabinet and commences September 2014 | To provide transport for children with Special Educational Needs (SEN) to and from school.   |
| 3. Therapy Services commenced May 2014   | To undertake direct work and provide therapy support to foster carers and adopters to meet the needs of children and young people placed with them to promote placement stability. |
| 4. Supervised Contact Service  | To provide and support contact arrangements for looked after children which complement the in house provision.   |
| 5. Workforce Development   | The provision of children's services training and development programmes.  |
| 6. Children's Residential Care Placements Framework                            | To ensure the provision of quality residential care placements which meet the needs of children and young people from Walsall.   |

|   |  |
|---|--|
| 7. Independent Fostering Agency Placements Framework          | To ensure the provision of quality fostering placements to meet the needs of children and young people from Walsall. |
| 8. Parenting – to be confirmed                                | To provide a range of evidence based parenting support.  |
| 9. Childrens Centres – to be confirmed following consultation | To provide childcare and family and employment support in local communities  |

### **2015-16**

|   |  |
|---|--|
| 1. Regional Supported Accommodation Framework | To ensure a range of quality supported accommodation placements which meet the needs of 16 and 17 year old care leavers.   |
| 2. Domestic Abuse Response Team (DART)        | To re-tender the assessment and provision of support for families experiencing domestic abuse.   |
| 3. Therapy Services                           | To undertake direct work and provide therapy support to foster carers, adopters and residential care to meet the needs of children and young people placed with them to promote placement stability. |
| 4. Short Breaks                               | To ensure a comprehensive range of short break support and opportunities for children and young people with disabilities.  |
| 5. Troubled Families Computer System          | To allow tracking outcomes to secure reward payments   |

### **2017-18**

|  |   |
|--|---|
| 1. Children's Residential Care Placements Framework  | To ensure the provision of quality residential care placements which meet the needs of children and young people from Walsall.            |
| 2. Independent Fostering Agency Placements Framework | To ensure the provision of quality fostering placements to meet the needs of children and young people from Walsall.                      |
| 3. Independent Social Work assessments               | To provide quality assessments of Family and Friends Foster Carers and for Special Guardianship Orders which meet the child's timescales. |
| 4. Assisted Transport                                | To provide transport for children with Special Educational Needs (SEN) to and from school.  |
| 5. Supervised Contact Service                        | To provide and support contact arrangements for looked after children which complement the in house provision.                            |

- 3.3 Commissioning is a process of change and improvement that includes service improvement and redesign that is not limited to externally procured services. The commissioning team apply the 'social care standard' commissioning process that covers these steps;

#### **Analyse and Understand**

- Needs Analysis – identify unmet needs that impair better outcomes for Children
- Review Children and Young People and/or Parent/carer views through survey evidence and/or consultation/involvement
- Market Mapping – what services exist to meet identified needs
- Best Practice Review – what evidence exists on the best way to meet identified need
- Gap Analysis – Report on what are best options to improve outcomes by service design/ redesign
- Consult in adherence to Statutory Guidance on Best Value - Stakeholder event to review options
- Final Option Appraisal Report on recommended future service design

#### **Plan**

- Strategic Make or buy decision
  - Make – internal service redesign
  - Buy – commence procurement process

#### **Do**

- Support budget holder implement service redesign
- Draft Service specifications
- Deliver procurement in collaboration with legal and procurement officers
- Contract Manage

#### **Review**

- Collect intelligence from feedback from children and their parents and carers and through service review or contract management/quality assurance
- Decommission
- Recommence Commissioning cycle

Because Commissioning is wider than procurement, the Commissioning Plan includes a number of service improvement projects that do not involve procurement. The priorities for 2014 are;

#### **Specialist Services**

- Reduce LAC through Step up prevention and step down enhancement service redesign (including learning from Public Health Report)
- Support Catch 22 project on adolescent service pilot
- CAMHS specification and service delivery option appraisal
- Improve Budget forecasting – Agency and LAC
- Supported Accommodation specification and brokerage
- Regional Strengths and Difficulties Questionnaire (SDQ) project – more effective contract management and costing packages of care
- Option appraisal to reduce use of Agency Staff

### Early Help

- 'Toxic Trio' Joint Commissioning project -this will look at the impact of domestic abuse, substance misuse and mental ill health (Toxic Trio) on parenting and how we can work across our partnership to identify needs earlier and support families to remain together where possible.
- Parenting Commissioning
- Childrens Centres redesign

### SEND

- Enhance Autism parenting support services
- Post 16 SEN Commissioning
- Low needs (HI / VI sensory disability) regional pilot
- Parental Survey satisfaction of Short break services
- Personal Budget strategy and impact analysis on contracts
- Support Children with Disabilities (CwD) Team spending reduction / re-alignment by introducing Needs Matrix
- Review Out of Borough SEN Education placements and build local Education providers capacity to meet local need

### Other

- CYPP Needs assessment (through JSNA)
- Childrens Voice (analysis of YOW Survey undertaken by nearly 2000 secondary school children)
- Embed risk proportionate contract management across 207 contracts
- Deliver commissioning plan
- Support Strategic Planning through CYPP, Health and Well Being Strategy and Walsall Plan

## **Decommissioning**

The Commissioning process requires the regular review of effectiveness and value for money of provided and purchased services which can sometimes result in decisions to decommission, or cease, services. In addition budget savings that will be consulted on over the next few months may also result in the need to decommission a number of services. A considerable amount of work is required if de-commissioning is to be effective;

- Ensure that contract conditions are adhered to (eg; termination reasons and notice periods) to avoid risk of legal challenge to the council
- Manage TUPE where it applies
- Avoid unintended consequences of increased costs as a result of de-commissioning (eg; ceasing a short break service for disabled children that results in more admission to care at a higher cost)
- Integrating effective consultation and its outcomes into the process

## **Contract Management**

The task of managing over 200 contracts for the provision of services to vulnerable children is substantial. The goal is to ensure contractors are improving outcomes for children, offering value for money and complying with contractual terms and specification and legislative requirements. The approach being developed is based on

risk assessment and proportionate monitoring together with gathering intelligence – from Ofsted, CQC, Social Worker reviews, complaints and performance information and integration with corporate contract management team.

### **Contact Service**

Contact Services support and maintain regular communication and visits for looked after children with their parents or siblings. There are different types of contact, including supervised or assessed contact which will be observed as a part of the permanency decision making for children and young people. Most contact takes place at Stroud Avenue Family Centre. Although there is a pool of council trained sessional staff who support contact sessions, there are a significant number of occasions where in house capacity cannot meet the demand. In response to this need, Walsall led on the procurement of the Contact Framework in place for Walsall and Dudley Councils with an annual spend by Walsall of around £717,000.

The Contact Framework gives Walsall the flexibility to make individual call-offs as and when Walsall's internal service delivery mechanisms are unavailable/unable to meet the needs of the contact arrangements. The Framework arrangement started on 12<sup>th</sup> December 2011 and will be extended, subject to approval, to 11<sup>th</sup> December 2015. This will provide sufficient time for a re-procurement exercise for new framework arrangements to be in place when the current contracts come to an end. Learning from the current arrangements will be included in the tender, especially in relation to the provision of venues.

### **Residential Care**

In May 2012 Walsall Council entered into a regional framework agreement for the provision of residential care for children and young people. An extension to the contract was agreed on 5<sup>th</sup> February 2014 to take account of a new procurement process led by Sandwell Council which will lead to new agreements by November 2014.

At the commencement of the Framework, Walsall Council had 16 private residential care placements. The estimated annual saving of the transfer of these placements (where applicable) to the Framework was approximately £40,000 per annum. No provider has received an annual uplift in costs since the start of the Framework as was more commonplace when placements were spot purchased.

As at July 2014, Walsall has 13 placements with private residential care providers at a cost of around £2.2 million per annum after income net cost is £1.3 million. It is anticipated that the cost of spot purchased external residential care would be higher than under the tendered prices of a Framework, and availability would be severely limited. Benchmarking costs with other councils in 2013 (Cipfa) found that Walsall average payment for such services was £2,645 compared the average payment of £2,927 across 77 councils.

To date, most West Midlands local authorities have indicated a preference for a retender to the existing framework agreement. If Walsall Council chose not to be involved in the Residential Framework agreement, it could put the Council at a distinct disadvantage to the other local authorities commissioning placements from within the framework, both in terms costs, and in terms of availability of placements.

The procurement process commenced in July 2014 and contract award is anticipated in November 2014. Approval is sought to join the Framework. The Council may still make

spot purchases if it provides better value or is required to meet the specific needs of individual children.

### **Independent Fostering Agency Care**

In April 2011 Walsall Council entered into a regional framework agreement for the provision of Independent Foster Care. The agreement was initially for 3 years with provision to extend for a further year. An extension to the agreement was approved on 11<sup>th</sup> December 2013 to accommodate a continuation of the service until the agreement expires in April 2015.

The estimated annual saving of the transfer of these placements (where applicable) to purchases from the framework was approximately £342,000 per annum. No provider has received an annual uplift in costs since the start of the framework other than by the mechanics of the framework relative to the age band of the child. This risk that tendered prices will be higher will be mitigated by ranking prices offered and allowing price reductions to improve ranking. Cost and volume discounts also keep down relative costs of multiple placements with providers.

As at 20<sup>th</sup> June 2014, Walsall had 117 placements with Independent Fostering Agencies at a cost of around £4.3 million per annum. It is anticipated that the cost of spot purchased placements with independent foster carers would be higher than under the tendered costs through a framework, and availability would be likewise severely limited. Benchmarking costs with other councils in 2013 (Cipfa) found that Walsall average payment for such services was slightly higher than the average payment across 77 councils, which could be explained by our lower usage for children with more complex needs.

If Walsall Council chose not to be involved in a further regional/sub-regional framework, it could put the Council at a distinct disadvantage to the other local authorities commissioning placements from within the framework, both in terms costs and availability of placements. Approval is sought to join the best value sub-regional Framework from November 2014. The Council may still make spot purchases if it provides better value or is required to meet the specific needs of individual children.

### **Supported Accommodation**

A number of local authorities from across the region entered into a Framework Agreement for the provision of supported accommodation for 16 and 17 year olds which commenced in November 2012. Walsall Children's Services use the Framework for supported accommodation placements for 16 and 17 year olds care leavers. The Framework is managed by Staffordshire County Council who are the lead authority for the procurement and management of the contracts and also co-ordinate a regional management group which meets quarterly to manage the contracts, share information on quality and make decisions relating to the management of the Framework. The contracts were let for two years with the option to extend to a further two years. Agreement has been reached to extend the Framework Agreement for a year to November 2015 while the re-procurement of the services is undertaken to put a new Framework Agreement in place after this date. Approval is sought to extend the contract and participate in the new Framework. The Council may still make spot purchases if it provides better value or is required to meet the specific needs of individual children.

Children's Services work closely with Supported Housing colleagues as some of our care leavers have and continue to access supported accommodation spaces provided under contracts with the council or in the council's own accommodation. New services are proposed to be procured (subject of a separate report to cabinet) including an expansion of supported lodgings, which have better outcomes for young people than many traditional supported housing placements. The work involves developing services that meet the young people's needs rather than a 'one-size' fits all approach that ultimately fails to meet their needs.

### **Non- Accommodation Based Services**

Telford and Wrekin, on behalf of a number of councils, is currently undertaking a tender for the provision of a regional framework arrangement for non-accommodation based services. The tender includes some services for which Walsall currently has contractual arrangements, for example Contact Services, it is therefore envisaged that this Framework will provide a back up and resilience to our existing arrangements in these cases as well as potential to access to services we don't currently contract. Approval is sought to join the Framework. The Council may still make use of the existing frameworks and contracts make spot purchases if it provides better value or is required to meet the specific needs of individual children.

### **Children's Centres**

The Core Purpose of Children's Centres is to provide family and health support services, moving towards more targeted services which improve children's outcomes and support parents in accessing employment and training advice and also raising children's outcomes at the end of Foundation Stage to narrow the gap between disadvantaged children and the rest. There are currently 18 Children's Centres in Walsall. These are located within a delivery framework of 6 area-based clusters following a reorganisation. The following children centres currently have contracts with the Local Authority which are due to end 31<sup>st</sup> March 2015;

- Palfrey & Paddock Chuckery both provided by Palfrey Community Association
- Pheasey – provided by Pheasey Park Farm Foundation school on a school site

The overall budget for the provision of Children's Centres and the Early help cluster arrangements in 2014/15 is £5,455,366, of which £726,550 funds these contracts.

The options are;

1. Waive Contract Rules and appoint short term temporary contracts for up to 12 months to allow time for the budget to be agreed, consultation to take place and the service offer to be defined and then procured if necessary
2. Tender the above services, with procurement commencing with an invitation to tender issued in mid September 2014
3. Let the current contract expire and transfer the functions into the Council, and manage the TUPE implications
4. Let the current contract expire and cease service provision

There is no option for a further contract extension beyond April 2015. There is clear statutory guidance that requires consultation before any closure or reduction in Children's Centre services. This does not specify a timescale for the consultation but does state that it expects this will need to be no longer than 12 weeks. There is also the risk to the council, if the decision is made to implement option 4, of potential clawback of capital grants unless the DfE consent to waiver or defer any clawback.

The preferred and recommended option is to appoint short term temporary contracts for the services for up to one year to allow a new service delivery model for this service to be developed during 2015/16 once the budget available for this service is agreed and



consultation has been completed. This will require Officers to use their delegated powers to waive the Contract Rules to enable the setting up of short term contracts to be undertaken. Thereafter, and if required, a procurement process can then be implemented, which will need to commence no later than August 2015.

### **Short Breaks**

The council's objective is to provide quality short breaks to disabled children and their families. A short break is a positive activity which gives disabled children the opportunity to take part in everyday activities with their friends and to enjoy new experiences whilst giving the parents a break from their caring responsibilities. Short Breaks are also a form of early help to prevent a crisis and escalation to more expensive resources like residential care. In July 2014, 85 disabled children were eligible for a short break under Section 17 of the Children Act 1989. Our short break services are delivered under the Short Break Regulations 2010.

Children's Services currently commission 14 Short Break agencies within a Framework Agreement with an annual spend of currently £1.2 million. These providers have developed personalised support tailored to the individual needs of the child and their family. The Framework Agreement began 1<sup>st</sup> December 2013 and has been extended to 1<sup>st</sup> December 2015. Approval is sought to jointly procure this service with Adult Social Care and their service for adults with disabilities, or if this does not offer best value for children's services, to commence a procurement in March 2015.

### **Information Advice and Guidance (IAG)**

The statutory provision for IAG changed in 2012 when universal provision was transferred to schools. The Council continues to have a statutory duty (under the Education and Skills Act 2008) for tracking and assisting the most vulnerable young people to find education, employment or training. Walsall Council entered into a five year contract with Prospects for the delivery of IAG from 1<sup>st</sup> April 2010. Another Cabinet Report on the Private agenda makes recommendations regarding this contract and a further Cabinet Report will deal with aspects relating to future IAG service delivery.

## **4. Council priorities**

- 4.1 The services covered by this report help contribute to the delivery of two Council priorities;

#### *Supporting business to thrive and supporting local people into work*

The awarding of contracts to local companies and voluntary sector is aimed for within the regulations. Most of the Assisted Transport spend is with local companies and for Childrens Centres the voluntary sector is in a strong position with lower start-up costs than out of borough competitors. A local Social Enterprise group, local small businesses and local voluntary groups are contractors on the Short Break Framework

#### *Improving safeguarding, learning and the life chances for Children and Young People*

All commissioned services are explicitly designed to deliver this priority.

## **5. Risk management**

- 5.1 Due to the number of services and procurements covered by this report there are several risks including financial risks with re-procurement exercises if the market conditions change and claw back of grant if the option, not recommended, was chosen to close children's centres. TUPE may also apply. These are mitigated by having an effective and properly resourced commissioning team which implements good practice commissioning and liaises closely with budget holders, legal, finance and procurement colleagues and maintenance of an accurate contract register to ensure timely commissioning and procurement.

## **6. Financial implications**

- 6.1 The framework contracts are called off when required, with no commitment to purchase and so the financial implications depend on the assessment of need by social workers and budget holder approval to purchase within budget. The Children's Centres contract requires a financial commitment and this will be managed by a spot purchase of services to the value of the allocated budget.

## **7. Legal implications**

- 7.1 Although the services concerned are classified as Part B services and therefore not subject to the entire European Procurement regime there is still an inherent general requirement in law for a fair, open, proportionate and transparent competitive process to be undertaken. Whilst continuing to have services delivered through temporary arrangements does present over time increased risk of challenge, as long as the Council undertakes the reasonably necessary steps to enable that process to begin for those services required within a reasonable time it reduces the likelihood of a challenge.
- 7.2 Cabinet should also note that the current European Procurement Regime is due to be replaced by a new regime, which is anticipated to come in to place at some time during the next 12 to 18 months. These changes include making Social Care and Children services, such as the type covered by this report, subject to a requirement for a European Procurement process. Depending upon when these changes come into force they may impact upon the commissioning plan.
- 7.3 The drafting of terms and conditions of contracts is carried out by Legal Services and the adherence to these when deciding on contract extension or termination is critical to protect the council from challenge and avoid the loss of any rights or options to unilaterally extend or terminate any contract in line with the recommendations in this report. Similarly the procurement process is managed in collaboration with procurement and legal colleagues to ensure compliance with Public Sector and European Procurement regulations, TUPE regulations, consultation requirements, grant conditions and any other contractual obligation of the Council in any deed or contract.
- 7.4 Where service are sought to be provide by external bodies there is a legal requirement to procure them, this includes both the private sector and third sector as well other public bodies such as foundation schools that may wish to provide those services on behalf of the Council.

## **8. Property implications**

- 8.1 Childrens Centres have complex letting arrangements which will be managed through the commissioning and de-commissioning process supported by Property Services.

## **9. Health and wellbeing implications**

- 9.1 All the services covered in this report are specifically designed to improve the health and wellbeing of children and young people, with a primary focus on safeguarding and improving outcomes. Public Health are consulted on specification design to ensure that best practice is included.

The activities outlined in the report also adhere to the objectives of the Marmot Review:

- **Give every child the best start in life** – by providing care and support
- **Enable all children, young people and adults to maximise their capabilities and have control over their lives** – by providing care and support and transition to adulthood
- **Create fair employment and good work for all** – by providing local work opportunities through contracted services

## **10. Staffing implications**

10. This report covers only the external spending aspect of commissioning and consequently does not affect council staff. There may be TUPE implications if Cabinet agree to the expiry of contracts and some staff may TUPE transfer into the council (or to any replacement contractor). This will depend on consultation and budget decisions and (where relevant) will be managed with support from HR, legal and finance officers.

## **11. Equality implications**

11. The Commissioning process commences with the identification of need for services, many of the children we provide services for are socially excluded and our services are designed to reduce this need and increase equality of opportunity.

## **12. Consultation**

- 12.1 Consultation is undertaken as part of the commissioning process for specific projects as good practice or as part of statutory duty – for example Children's Centres. The schedule of consultation taking place with a range of stakeholders include the YOW Survey with young people and the survey of short break provision with parents of children with disabilities.

**Background papers**

None

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A handwritten signature in black ink that reads "Rose Collinson". The signature is written in a cursive style with a long horizontal stroke at the end.

Rose Collinson

Interim Executive Director

1 September 2014

A handwritten signature in black ink that reads "Cassidy". The signature is written in a cursive style with a long horizontal stroke at the end.

Councillor Cassidy

Portfolio holder

1 September 2014