

## West Midlands Regional Independent Fostering Agency Framework

**Portfolio:** Councillor Elson – Portfolio Holder for Children & Young People

### Related portfolios

**Service:** Children's Services

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

### 1. Aim

- 1.1. To ensure our children in care and care experienced young people live in safe, nurturing homes or settings that offer value for money, this report seeks approval to join the new West Midlands Regional Foster Care Framework (the 'new Framework') and to call off (order, arrange and pay) for foster placements from this framework.
- 1.2. Local Authorities in the West Midlands region have a strong history of working together and jointly commissioning children's services providers for a range of services, including foster placements and this new Framework has been procured on behalf of the West Midlands region by Coventry City Council. It will replace the current Foster Care Framework that expires on 30<sup>th</sup> September 2024.

### 2. Summary

- 2.1. There are **665** children in care in Walsall (as of 31 March 2024): **480** children placed with foster carers, of which **236** with foster carers approved by Independent Fostering Agencies (IFAs).
- 2.2. The current West Midlands Fostering Framework is due to expire on the 30 September 2024 and the West Midlands Authorities/Trusts shall cease to use this and the new framework will commence.
- 2.3. Coventry City Council is the lead local authority for this new framework, which will be accessed by 12 other West Midlands Local Authorities and 2 Children's Trusts.
- 2.4. The West Midlands Regional Independent Fostering Agency (IFA) Framework remains the primary means by which foster care homes are sourced in the region from the independent market. Over **90%** of our IFA placements are made via the current framework. Renewing the framework is therefore central to the

West Midlands Local Authorities and Children's Trusts' strategy for securing sufficient foster homes to meet need in the coming years. The tender exercise was compliant with the Public Contract Regulations 2015.

- 2.5. To continue to source foster placements with IFAs, Walsall Children's Services need to ensure continued access to the new Framework, offering placements with foster care agencies who have been subject to competition and due diligence, with agreed terms and conditions and prices. The value of these arrangements is substantial, with **£10.5m** spent by the Council on IFA foster placements during 23/24.
- 2.6. Approval for Coventry City Council to progress with the West Midlands Fostering Framework tender on behalf of the region was ratified by Association of Directors of Children's Services (ADCS) in January 2024. The Council has been party to the tender and is named in the tender documentation along with 12 other West Midlands Local Authorities and 2 Children's Trusts.
- 2.7. Approval is sought to allow the Council to call off foster placements from the new Framework, which will commence on 1 August 2024. The new Framework will last for 4 years with the provision to extend by 2 increments of 3 years with an expiry date no later than 31 July 2034.
- 2.8. This is a key decision due to the estimated value of **£47m** over the initial 4 years of the Foster Care Framework.

### **3. Recommendations**

- 3.1. That Cabinet authorise the Council to enter into the Access Agreement with Coventry City Council to join the new West Midlands Regional Fostering Framework.
- 3.2. That Cabinet delegate authority to the Executive Director for Children's Services, in consultation with the Portfolio Holder for Children's Services, to subsequently authorise the sealing of deeds and/or signing of contracts and any other related documents for the provision of such services, as appropriate, including any agreement with Coventry City Council to facilitate these services.
- 3.3. That Cabinet delegate authority to the Executive Director for Children's Services, in consultation with the Portfolio Holder for Children's Services, to authorise any variations to the contractual arrangements or other related documents for such services should this be required throughout the duration of the term of any contracts.
- 3.4. That Cabinet delegate authority to the Executive Director of Children's Services, in consultation with the Portfolio Holder for Children's Services, to enter into 'call off' contracts with Independent Fostering Agencies who are awarded 'Fostering Framework Agreement' contracts by Coventry City Council pursuant to the new West Midlands Regional Foster Care Framework for a period of 4 years from 1 August 2024 with the provision to extend the ability to call off for by 2 increments of 3 years to an expiry date no later than 31 July 2034.

3.5. That Cabinet delegate authority to the Executive Director for Children's Services, in consultation with the Portfolio Holder for Children's Services, to enter into 'spot contracts' where the framework does not meet capacity and/or capability requirements.

#### 4. Report detail - know

##### **Context**

4.1. New framework analysis was undertaken regionally to understand the changes which have taken place at a national level and in the local foster care market. This included analysing trends and participating in engagement events with providers, promoting effective joint working. This approach informed the development of the specification and contractual process for the new Framework.

4.2. The key features of the new Framework are:

a) **Lot structure** - The new framework has four Lots: Standard Foster Care, Enhanced Foster Care, Specialist Foster Care, Parent and Child Foster Care.

b) **Annual Uplift Policy** - The permeable price cap and the provider's tendered pricing shall be fixed until 31 March 2025 and there forward the following annual review policy will apply:

- A standard formula will be used to calculate the uplift percentage. This will be comprised of the National Living Wage increase (for the concurrent April where the increase will come into effect) and the Consumer Price Inflation including Owner-occupiers' Housing costs (CPIH) rate for August (of the year before the uplift) in a 50:50 ratio.
- Providers will receive an automatic uplift annually on all their stated placement costs. New prices will be implemented on 1 April each year. Where a Provider has submitted a standard placement fee above the permeable price cap, they will not automatically be eligible for the annual uplift. Their standard placement cost will be held while it remains above the permeable price cap. The price cap will increase year on year with the application of the annual uplift. Once the Provider's fees fall at or are below the price cap, they will become subject to the automatic annual uplift.

c) **Method of call-off** - The method of call from the new framework will be 'Direct award' or 'Mini Competition.' When an Authority/Trust has a referral, they will contact all the Providers on the Framework under the relevant Lot for the service required, to share high level referral information regarding the child or young person. The Authority/Trust will determine whether the Providers have placement availability according to the specific needs of the child or young person and how quickly they need to be placed. If only one Provider can potentially meet the requirement, the Authority/Trust will follow a Direct Award Process. If the Authority/Trust identifies more than one Provider that can potentially meet the requirement, a Mini Competition will be conducted.

d) **Pricing Schedule** - For the new framework, a full cost breakdown is required for the standard placement cost and for Lot 3 specialist placement cost. The cost of pocket money, savings and gifts will not be included in the placement weekly cost that is submitted at tender stage. The level of pocket money etc. to be given to the child will be discussed at the point of placement, according to the Placing Authority's local policy and guidelines. Details of these costs and processes will be included within the Individual Placement Agreements (IPA) and Providers will be required to add the agreed costs to their total weekly placement cost.

e) **Legacy Placements** - All legacy placements will transfer onto the new framework at their existing prices. As children age and move into a new age band, i.e. at 5, 11 or 16 years their placement will move onto the new price for the age band. In addition, all legacy placements will be subject to the terms and conditions of the new framework and therefore will be subject to the annual uplift policy.

f) **Data Protection** - The new framework has a Data Sharing Agreement for the sharing and protection of children's Personal Data and Special Categories of Personal Data between the Providers and Placing Authorities. Each Provider will have its own Data Sharing Agreement that will be signed by all 14 Authorities/Trusts.

g) **Insurances** - Under the new framework, Public Liability cover has been increased from £5 million to £10 million. Sexual abuse and molestation public liability cover has been increased £500k to £5 million. All other insurances levels remain the same. After the framework has expired, Providers are required to have Medical Malpractice insurance cover in place for a further 5 years and Professional Indemnity Insurance for a further 6 Years.

h) **Contract Management** - In the new framework there are 3 KPIs that Providers will be monitored against and performance management information that will be required either a quarterly or annual basis.

i) **Discounts** - The new framework requires no mandatory discounts from Providers. However, a Provider can offer a voluntary discount for sibling groups where they are placed together.

### ***The Procurement/Tender Process***

4.3. Tenders were sought for the provision of foster care placements with IFAs through an open procurement process using Coventry City Council's e-tendering system CWS-JETS.

4.4. The West Midlands Fostering Recommissioning Group, which included representation from Walsall Children's Commissioning, oversaw the development of the tender and tender documents. The Group will also support the quality evaluation aspects of the tender from 1 June 2024.

4.5. It is envisaged that the Framework Agreement will be awarded to around 60 Providers across Lots 1 - 4 for sufficiency purposes across the West Midlands region. The tenders will be evaluated against the criteria included in the

Invitation to tender of a Selection and Award Process Criteria (Pass/Fail). Providers who had met all the mandatory and/or minimum requirements (Pass/Fail Criteria) will be awarded onto the framework for the Lots that the Provider had applied for.

- 4.6. The services will be subject of review in the 4th and 7th years and the results of those reviews will inform the West Midlands Region's decision whether to offer any extension.

### ***Council Plan priorities***

- 4.7. The Council's Corporate plan: 2022-25, sets out a commitment to give children and young people the best possible start in life ensuring they are safe from harm, happy, healthy, and learning well. The provision of quality foster placements to keep children safe is central to this priority.

### ***Risk management***

- 4.8. Potential risk and liabilities as identified through the implementation and procurement process are managed through the development and enforcement of the terms of the overall Framework, individual call off contracts and the Access Agreement, all developed by Coventry City Council and agreed by the Council.

### ***Financial implications***

- 4.9. The Council's expenditure was **£10.5m** on foster placements managed by IFAs in 2023/24. There are currently **214** young people in foster placements purchased through the framework and **21** placed via spot purchases. Work continues to recruit and maximise the use of our internal foster carers, however we have more children and young people who are placed in IFAs due to overall demand increases.
- 4.10. The current average cost for internal foster care is **£558** per week compared to the IFA average of **£876** per week. Spot purchase placement costs are on average **£1,199** per week, which is **37%** higher than the cost of an IFA on the current Framework. The majority of IFA placements are made through the Framework arrangements, with only **9%** of IFA placements on more costly spot purchases. This evidences that the previous Framework arrangements are utilised comprehensively and highlight the importance of sustaining access to these collaborative arrangements.
- 4.11. Renewing the Framework has come at a time of considerable financial pressure for Councils and Trusts, as well as increases in costs for the providers. In response, commissioners have worked to provide a balance between these pressures to set fair pricing expectations by simplifying the new framework, to enable providers to offer fair and competitive prices and free up capacity to build meaningful relationships between providers and placing authorities in the best interest of their children and young people.

- 4.12. The tendering exercise has been supported by the West Midlands Commissioning Hub. No additional financial contribution is required from the other West Midlands Local Authorities for Coventry City Council leading on this framework.
- 4.13. Placing authorities for this framework are committed to working together to ensure our children in care who require foster care placements receive the best and most appropriate care to enable them to achieve their full potential. Not being part of the new regional framework arrangements would leave the Council vulnerable to market driven forces, resulting in an increase in spot purchased placements, and potentially increase overall costs. The current framework arrangements have been successful in maintaining costs and has helped the Council access a wider market of IFA providers. Therefore, renewing these regional arrangements will help the Council to continue to manage the market through a collaborative approach.
- 4.14. Where there is an identified health need, the council will continue to seek funding from the relevant health funding stream, for example, Continuing Health Care Funding would be sought where appropriate, which could provide an additional contribution to overall foster placement costs.
- 4.15. The current Medium Term Financial Outlook includes a **4%** uplift per annum for all IFA framework placements at a total cost of **£332k** in 2025/26.
- 4.16. As at the end of April 24, **204** of the **214** framework placement rates were below the proposed price cap. The full year impact of these increasing to the price cap, when the child enters the next age bracket, is **c.£1.16m** over six financial years. This impact per financial year is as below:

<b>24/25</b>	<b>25/26</b>	<b>26/27</b>	<b>27/28</b>	<b>28/29</b>	<b>Total</b>
280,767	176,764	235,268	259,511	140,514	1,160,111

If future uplifts were to be higher than the budgeted 4%, further annual pressures would be realised.

### ***Legal implications***

- 4.17. The contractual documents for the new framework have been developed by Coventry City Council Council's Legal Services.
- 4.18. The overarching Framework and Access Agreement will outline the responsibilities and accountability of Coventry City Council and each participating Local Authority in relation to their use of the Framework and include indemnities that protect the Council from the actions of other participating Local Authority in their use of the new Framework.
- 4.19. While Coventry City Council will be contracting with each IFA, for each Walsall Council placement, the council will enter a 'call off' contract with an IFA, which will specify the terms on which each foster care placement is ordered, arranged, and paid for.

### ***Procurement Implications/Social Value***

- 4.20. The procurement process has been conducted in accordance with the Public Contract Regulations 2015, the Council's Contract Rules, and Social Value Policy.
- 4.21. The collaborative procurement process has the benefit of shared resource, knowledge, and experience. However, care has been taken to protect the Council's interest and minimise any increased procurement related risk that may be associated with such arrangements. Procurement advice was sought to minimise procurement-related risk. However, there will always remain an inherent risk of legal challenge associated with any procurement undertaken.
- 4.22. Social value is an integral part of this contract and all tenders have been evaluated based on their ability to bring social value including employment and volunteering opportunities as part of their service delivery. The successful bidders will need to clearly demonstrate their social value through a commitment to create opportunities for local people and voluntary sector organisations.
- 4.23. The recommendation to award report will be presented to Third Party Spend Board (TPSB) Gateway 2 and will provide full details on the procurement process and how the evaluation was undertaken.

### ***Property implications***

- 4.24. There are no property implications.

### ***Health and wellbeing implications***

- 4.25. The content of this report has considered the Marmot objectives. Our priority is that Children are safe from harm, happy and learning well with self-belief, aspiration, and support to be their best: Walsall children are provided with the best start in life so they can fulfil their potential and make positive contributions to their communities. The new framework arrangements for the provision of fostering placements will keep children safe and reduce the impact of adverse childhood experiences on our children in care and care experienced young people population and associated health inequalities. This is an explicit objective of the Joint Strategic Needs Assessment, Walsall Plan – Health and Well Being Strategy 2022-2025.

### ***Reducing Inequalities***

- 4.26. The new Framework arrangements will support our Children in Care and aim to maximise opportunities for them, reducing inequalities for this cohort of children and families.

### ***Staffing implications***

- 4.27. Foster placements are sourced by Walsall Children's Services Home Finding Team. The new Framework arrangements support this small team to source foster placements in a more effective, efficient, and compliant way.

### ***Climate Impact***

- 4.28. There are no climate impact implications. All contracts, monitoring and placement searches are done online to reduce our carbon footprint.

### ***Consultation***

- 4.29. The tender was developed in consultation with key stakeholders, including IFAs at provider events to discuss the tender. The event gained feedback on current provision, future needs and identified issues and changes to be considered in the development of the new Framework.
- 4.30. Changes to the new framework aim to enable providers to offer fair and competitive prices and free up capacity to build meaningful relationships between providers and placing authorities in the best interest of the children.
- 4.31. There are many opportunities for engaging with children and young people on an individual basis and these inform the ongoing management and delivery of the framework.
- 4.32. This paper has been brought to Cabinet following internal consultation with Council representatives, directors, and the portfolio holder for Children's Services.

## **5. Decide**

- 5.1. This report recommends that Walsall Council joins the new Framework to enable the council to enter 'call off' contracts with Providers to ensure the purchasing of individual foster care placements which are compliant, subject to due diligence and quality checks and offer value for money.

## **6. Respond**

- 6.1. The implementation and management of the new Framework is managed by Coventry City Council in partnership with West Midlands regional authorities. This includes both individual authority and collective contract management as well as processes for addressing concerns. Walsall's Children's Home finding Service are embedding the new Framework arrangements within their Placements Process, supported by the Children's Commissioning Team.

## **7. Review**

- 7.1. The new Framework Arrangement is monitored and managed by Coventry City Council with performance management supported collaboratively across the



region. Performance information will be reported to both the Operational and Strategic Regional Commissioning Groups at which Walsall Children's Services has consistent representation.

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Signed



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17<sup>th</sup> June 2024

Signed



Councillor Elson  
Portfolio holder, Portfolio Holder for  
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3<sup>rd</sup> July 2024