

## **West Midlands Regional Residential Children’s Homes Framework**

**Portfolio:** Councillor Elson – Children and 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 and in settings that offer value for money, this report seeks approval to join the new West Midlands Regional Residential Care Framework (the ‘new Framework’) and to call off (order, arrange and pay) for residential home 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 for a range of provision, including residential children homes placements and this new Framework has been procured on behalf of the West Midlands region by Coventry City Council. It will replace the current Residential Framework that expires on 16<sup>th</sup> December 2024.

### **2. Summary**

- 2.1. There are 665 children in care in Walsall (as of 31 March 2024): 12 of them placed in internal residential homes; and 82 children placed in external provision, which a total of 57 different providers. There are currently 24 young people in residential placements purchased through the current residential framework and 58 placed via spot purchases in various settings. The Council’s total gross expenditure was £23.3m on external residential placements in 2023/24.
- 2.2. The number of children in residential settings encompasses a range of provision including residential homes, residential schools, CQC registered providers, Mother and Baby Placements, Supported Accommodation, unregulated provision and Secure Accommodation. Providers have been leaving the existing framework due to a lack of flexibility within the framework and new framework is aiming to address this by removing price caps, introducing new lots and requiring all homes owned by the providers to be listed under the framework. This will contribute to the Council’s Sufficiency Strategy in providing good quality, affordable residential care for our children.

- 2.3. The current West Midlands Residential Framework is due to expire on 16 December 2024 and the West Midlands Authorities/Trusts shall cease to use this and the new framework will commence.
- 2.4. Coventry City Council, managed via the Commissioning Hub 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. This report shares the proposed form of the framework at the time of writing and is subject to the Association Directors of Children's Services final approval.
- 2.5. The West Midlands Regional Residential Framework remains the preferred means by which residential home placements are sourced in the region from the independent market. Renewing the framework is therefore central to the West Midlands Local Authorities and Children's Trusts' strategy for securing sufficient homes to meet need in the coming years. When the framework was first launched, the proportion of placements made through it was around **70%** across the region. This has shifted over last two years in line with the change in the market and the increased cost of running the provision. For Walsall, currently 34% of our residential placements are made via the current framework. The new framework has been designed with a view to making the framework attractive for providers to join. It is estimated that the introduction of the framework will create a cost avoidance in the region of £20million as estimated by the Commissioning Hub.
- 2.6. 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, potentially increasing overall costs as such placements are more expensive. The current framework arrangements have been successful in maintaining costs and has helped the Council access a wider market of residential home providers. Renewing these regional arrangements will help the Council to continue to manage the market through a collaborative commissioning approach.
- 2.7. The new framework will enable, Walsall Children's Services access to, placements with external providers who have been subject to competition and due diligence, with agreed terms and conditions and prices, via a tendering exercise that is compliant with the Public Contracts Regulations 2015. The value of these arrangements is substantial, with £23.3m spent by the Council on all residential placements, during 2023/2024.
- 2.8. Approval for Coventry City Council to progress with the West Midlands Residential Children Homes Framework tender on behalf of the region was ratified by Association of Directors of Children's Services (ADCS) in February 2024. The Council has been party to the tendering exercise and is named in the tender documentation along with 12 other West Midlands Local Authorities and 2 Children's Trusts.
- 2.9. Approval is sought to enable the Council to call off residential placements from the new framework, which will commence on 17<sup>th</sup> December 2024. The new

framework is initially for 5 years with the provision to extend by 2 increments of 3 and 2 years, with an expiry date no later than 16 December 2034.

- 2.10. This is a key decision due to the estimated value of £131m over the initial 5 years of the framework for placements made by the Council.

### **3. Recommendations**

- 3.1. That Cabinet authorise the Council to enter into an Access Agreement with Coventry City Council to join the new West Midlands Regional Residential 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 residential services under the framework, as appropriate, including any access agreement with Coventry City Council to facilitate access to and provision of 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 Residential Children's Home Providers who are awarded 'Residential Framework Agreement' contracts by Coventry City Council pursuant to the new West Midlands Regional Residential Care Framework for a period of 5 years with the provision to extend by 2 increments of 3 and 2 years respectively with an expiry date no later than 16 December 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. Analysis was undertaken to understand the changes which have taken place at a national level and in the local residential care market to inform the development of the new framework. This included data analysis and engagement events with providers. The framework has been developed in collaboration with other local authority consortia to build on the best practice and achieve consistency in approach to developing framework terms and conditions across the UK.

4.2. The key features of the new framework are:

a) **Lot structure** - The new framework has six Lots:

- **Lot 1 Planned and Same Day Residential Care** – “Children and young people requiring planned and / or same day residential care and accommodation only, who are normally resident within the Local Authorities”
- **Lot 2 Crisis Care/Short Term** – “Children and young people requiring Crisis placements consisting of residential care at short notice for a relatively short duration, who are normally resident within the Local Authorities”
- **Lot 3 Residential Care with DEF Regulated Education** – “Children and young people who require a residential placement with DFE regulated education, who are normally resident within the Local Authorities”
- **Lot 4 Residential Parenting Assessment** – “Parents and their Children requiring a placement for the purposes of conducting an assessment of parenting capacity, who are normally resident within the Local Authorities”
- **Lot 5 Therapeutic Residential Care** – “Children and young people requiring a therapeutic residential placement, who are normally resident within the Local Authorities”
- **Lot 6 Children with Disabilities** - “Children and young people with disabilities requiring planned and/ or same day residential care and accommodation only, who are normally resident within the Local Authorities”

b) **Annual Uplift Policy** – There is no price cap and the provider’s tendered pricing shall be fixed until 31 March 2026 and thereafter 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, commencing with 1 April 2026.

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 costs relating to all the Lots. The cost of pocket money, savings and gifts is proposed to be included in the placement weekly cost. 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. Providers will be required to outline their prices within age bands of 0-5, 6-10, 11-15, 16-17 years old. 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 but on the new framework terms and conditions. There is no plan to automatically increase the prices to the framework level. It is recognised within the West Midlands region that majority of placements are for less than a year in a residential setting. This is due to several reasons, including placement breakdowns/moves and young people reaching adulthood. As a result, the number of placements potentially classed as legacy is expected to be limited. The proposal is that qualifying placements providers will be invited to approach individual local authorities and Trusts to discuss and negotiate any potential uplifts to the legacy placements to be effective from 1<sup>st</sup> April 2025. This is to mitigate against potential placement breakdowns due to sustainability issues and it is proposed that such legacy placements will be uplifted by a maximum of the annual uplift following the NLW/CPIH formula.

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 Key Performance Indicators and other performance management information that that Providers will be monitored against, required either on 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 residential care homes provision through an open procurement process using Coventry City Council's e-tendering system CWS-JETS.
- 4.4. The West Midlands Residential 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 October 2024.
- 4.5. It is envisaged that the Framework Agreement will be awarded to around 130 Providers across Lots 1 - 6 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 framework will be a subject to review in the 5<sup>th</sup> and the 8<sup>th</sup> year and the results of those reviews will inform the West Midlands Region's decision whether to offer any extension. Additionally, the new framework will include the option to revise and reset prices at these stages to mitigate against unexpected economic situations and maintain sufficiency of provision.

### ***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 residential 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 Walsall Council.

### ***Financial implications***

- 4.9. The current average cost of an internal residential care placement is £3.5k per week compared to the framework residential home average of £6.1k per week. However, included within this average are two high-cost complex placements. When removing these the average reduces to £5.5k per week. Spot purchase placement costs are on average £6.1k per week, which is 10% higher than the cost compared to the current framework rate. However, the current weekly cost of a spot placement is as high as £9k per week. This illustrates that not being

party to the framework would put Walsall Council at risk of having to purchase placements for young people at a significantly higher cost and under less favourable terms and conditions.

	Number of Children		Number of Providers		Annual Spend in 2023/2024	Average weekly cost of placement
<b>Framework</b>	24	29%	18	32%	£8m	£5.5k
<b>Spot</b>	58	71%	39	68%	£15.3m	£6.1k

- 4.10. 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 set fair pricing by simplifying the new framework which will enable providers to offer fair and competitive prices.
- 4.11. The tendering exercise has been supported by the West Midlands Commissioning Hub. No additional financial contribution is required from the West Midlands Local Authorities for Coventry City Council leading on this framework.
- 4.12. The current Medium Term Financial Outlook includes a 4% uplift per annum for all residential framework placements in 2025/26.
- 4.13. Where there is an identified health need, the Council will continue to seek funding from the relevant health funding agency to ensure health partners are meeting their responsibilities.
- 4.14. Currently of the 24 framework placements, 13 are under the average weekly cost of £5.5k. If these providers were to be successful in qualifying for an uplift under the legacy placement terms, there could be a potential pressure of c.£423k per annum from April 2025, which has not been included within the Medium Term Financial Outlook.

### ***Legal implications***

- 4.15. The contractual documents for the new framework have been developed by Coventry City Council Council's Legal Services.
- 4.16. 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.
- 4.17. While Coventry City Council will be contracting with each residential home provider, for each Walsall Council placement, the Council will enter a 'call off' contract with an IFA, which will specify the terms on which each residential home placement is ordered, arranged and paid for.

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

- 4.18. The procurement process has been conducted in accordance with the Public Contract Regulations 2015, the Council's Contract Rules, and Social Value Policy.
- 4.19. 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.
- 4.20. Social value is an integral part of this contract and all tenders will be evaluated 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.
- 4.21. 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***

- 4.22. There are no property implications. Providers source their own properties.

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

- 4.23. 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 residential placements will keep children safe and reduce the impact of adverse childhood experiences 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***

- 4.24. 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 by ensuring good quality provision.

### ***Staffing implications***



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

### ***Climate Impact***

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

### ***Consultation***

- 4.27. The tender was developed in consultation with key stakeholders, including residential homes providers 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.
- 4.28. 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.
- 4.29. 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.
- 4.30. This report 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 residential home care placements which are compliant, subject to due diligence, 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.

- 7.2. Internally, social care teams work closely with Home Finding and Commissioning teams to support quality oversight of placements and provider behaviours.

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