

**London Borough of Enfield
Cabinet Report**

Meeting Date: 8th February 2023

Subject: Secure Children's Home for London and Pan-London
Commissioning Vehicle (PLV)
Cabinet Member: Abdul Abdullahi
Executive Director: Tony Theodoulou

Key Decision: KD 5483

Purpose of Report

1. To seek approval to join a Pan-London Vehicle (PLV) for Commissioning which will develop secure welfare provision in London with the aim of providing a mechanism for future joint commissioning.

Proposal(s)

2. Cabinet to approve Enfield:
 - Becomes a member of a not-for-profit company, limited by guarantee, provisionally to be known as the Pan London Vehicle, to:
 - develop and then oversee the running of London's secure children's home provision for a five-year period from 1st April 2023 to 31st March 2028, with a break-point after two years once the refreshed business case has been developed to include service pricing structure, commissioning approach, practice model and location and
 - collaborate with other PLV members (all London Local Authorities have been invited to be part of the PLV) on future joint commissioning programmes. Full list of members to be confirmed in due course.
 - Commits in principle to joint oversight and risk/benefit sharing, through the PLV, of the secure children's home provision, for a five-year period to 31st March 2028, including the build, service development and service commissioning phases, subject to ratification after the revision of the SCH business case, and renewable on a ten yearly cycle thereafter, with break-point after five years.
 - Delegates authority to the **Executive Director - People** to:
 - finalise the legal documents required to set up, join and run the PLV and

- make the final determination on the Council's membership of the PLV, following completion of the revised SCH business case

Reason for Proposal(s)

Why does London need Secure Welfare Provision?

3. Children with particularly complex needs, including those who are at significant risk of causing harm to themselves or others, including risk to life, can be placed in a secure children's home when no other type of placement would keep them safe. Children placed in SCHs are likely to have experienced a number of placements that have broken down, missed a lot of education, have unmet emotional and physical health needs and have suffered a great deal of trauma in their lives. SCHs provide a safe place where these very vulnerable children can receive the care, education and support that they need. A secure children's home is a locked environment, where their liberty is restricted and they are supported through trauma aware and psychologically informed integrated care, health and educational services.
4. Across London, a relatively small number of children require a secure welfare placement, which is very high-cost provision and despite their complex needs, these children are often placed the furthest from their home local authorities, an average distance of 192 miles, which impacts detrimentally on children who lose contact with family and the community. Additionally, the loss of local contacts and pathways in education, training and employment has a negative impact on their development post-placement.
5. Further, there is a national shortage of provision and places are often not available when referrals are made so children are then placed in less suitable but higher cost alternatives. This shortfall in provision is particularly acute in London where there is not any Secure Provision – over three years London referred 295 children to Secure Provision but only 159 received places. The majority of requests (72%) are for children from Black and Minority Ethnic groups, well in excess of the London comparable profile of 41%. The current arrangements are exacerbating poorer outcomes for this group and racial disparities.
6. Pan-London analysis pre-Covid (eight-month period October 2017 to May 2018) highlighted that an average of 21 London children were in Secure Welfare provision at any one time. Further analysis post-Covid has indicated a fall in numbers, with an average of 12 children placed in the eight-month period between December 2021 and July 2022. The reduction is in part due to a national shortage of provision, with children being referred but no places being available and some local authorities choosing not to make referrals

given the lack of provision. In the eight months between December 2021 and July 2022, 24 children were referred but not offered a place, requiring the local authorities to seek alternative provision. The alternatives that are then secured are very costly, often in excess of £10k per week and up to £50k per week.

7. The numbers of children are too small and the investment required too great for any one local authority to run its own provision, but there is potential for a pan-London approach, which would enable the benefits to be shared whilst also jointly managing the risks of developing such provision. A pan-London approach also fits with recent reports from the Competition and Markets Authority (<https://www.gov.uk/government/publications/childrens-social-care-market-study-final-report/final-report>) and the Independent Review of Children's Social Care (<https://childrensocialcare.independent-review.uk/>) which recommended multi-authority approaches to develop greater understanding of need, engage with the market and stimulate new provision.
8. The need for provision was also highlighted through Her Majesty's Chief Inspector's Annual Report to Parliament (2020) which stated –
The national capacity of Secure Children's Homes remains a significant concern, with approximately 20 children awaiting a placement on any given day and the same number are placed in Scottish secure units. This increases pressure to use unregulated provision. Provision is not always in the right place, so that some children are placed a long way from their home and family.
9. The Association of London Directors of Children's Services (ALDCS), working with NHS England and the Mayor's Office for Policing and Crime (MOPAC) commissioned a review in 2018 of the use of Secure Children's Homes by London's children and young people. This review provided detailed evidence of the need for provision in London, which has informed this report.
10. There is also a shortfall of high-cost low incidence provision in London, estimated as at least 225 places, which drives up costs resulting in overspends across London local authorities which exceed £100 million. The Competition and Markets Authority highlighted the lack of suitable local provision nationally, but particularly in London citing – *'lack of placements of the right kind, in the right place...materially higher prices...and providers carrying very high levels of debt.'*

The proposed provision

11. The Association of London Directors of Children's Services (ALDCS), London Councils, NHS and London Innovation and Improvement Alliance (LIIA) have

expressed unanimous support for the development of secure children's home provision and developed a business case for secure children's home provision in London. This business case, which is available on request, has formed the basis of a successful bid to Department for Education and funding has been allocated to develop the required provision for London children.

12.As well as ALDCS members, a range of stakeholders were engaged throughout the development of the business case including:

- London Councils' Executive, Leaders' Committee and Lead Members;
- Local authorities (children's social care and youth offending teams);
- Central government (Department for Education, the Mayor's Office for Policing and Crime, OFSTED, Ministry of Justice);
- Clinical experts and practitioners within the field of children's services and health;
- Third sector organisations delivering children's services and
- Children and young people with lived experience of SCH.

13.The proposed provision will be designed specifically for London, with purpose-built Accommodation. This will reduce the risk of beds needing to be held vacant after a high-risk child is placed there in order to maintain a safe environment. The provision is being designed with co-located step-down facilities with wrap-around support, which is an innovative approach to supporting the children post-placement. This will enable a smoother transition and a return to the family or to the most appropriate long-term placement that will meet the child's needs. This will also prevent use of emergency placements following a 72-hour placement in secure, when the local authority may not have enough time to identify best next placement or prepare child and family for safe return home. This can lead to placement breakdowns or return to care, which incur avoidable costs and impact detrimentally on outcomes for the child.

Relevance to the Council Plan

14.This approach exemplifies our undertaking to ensure that looked after children will have access to the right type of placement which are specialised and allow us to deliver on the right outcomes for the children and young people.

Background

15.Children with particularly complex needs, including those who are at significant risk of causing harm to themselves or others, including risk to life,

can be placed in a secure children's home when no other type of placement would keep them safe. There is a significant shortage of national secure children's home provision as highlighted by OfSTED and London has no provision. The numbers of children placed are small, but the placements expensive. Further, where places are not available, the alternatives, often requiring multiple ratios of staff for each child, are amongst the costliest placements for children's services. For example, the Association of Directors of Children's Services (ADCS) recently highlighted more than twenty local authorities paying over £20K per week (equivalent to £1 million per year) and one case of £49,680 per week (equivalent to over £2 million per year).

16. There are few children requiring secure welfare provision and in the last eight months to July 2022 the numbers per local authority in London ranged from zero to three, with further children being referred but unable to be placed as a result of lack of capacity. There is an opportunity now to develop and establish secure children's home (SCH) provision in London to bring additional capacity to the market, with capital provided by the Department for Education, but this requires a pan-London approach.

Main Considerations for the Council

17. In Enfield, in the last 3 years, there have been 6 children that have required a secure placement where a secure children's bed has not been available due to lack of capacity and they have been placed in residential placements out of borough, usually many miles away from Enfield.
18. Children placed in these residential homes due to a lack of capacity in Secure Children's Home, remain in care longer costing the local authority more in the long run.

Safeguarding Implications

19. The secure children's home will need to be required to register with Ofsted and be required to have all the safeguarding policies in place.
20. Feedback of quality will be requested from social workers and Independent Reviewing Officers
21. The secure children's homes would be required to have a Designated Safeguarding Lead (DSL) and a deputy DSL. Responsibilities will include ensuring that policies and procedures are updated on a regular basis and that these are accessible to staff and users, that staff have relevant, up to date training and, that the settings follow safer recruitment processes and that safeguarding concerns or allegations of abuse are reported in a timely fashion.
22. A location risk assessment should be carried out before the Secure Children's Home is set up to mitigate any other safeguarding factors in the area.

Public Health Implications

23. Joining the London vehicle is likely to lead to savings which may be used to support interventions that might support or improve health in the borough. Otherwise, given that the numbers will (hopefully) be relatively small there are limited public health implications to this proposal.

Public Health implications provided by GS – 17.10.2022

Equalities Impact of the Proposal

24. An Equalities Impact Assessment has been completed and enclosed with this report as appendix 2. Based on this assessment it is anticipated that the secure children's home and the Pan-London vehicle will have a positive impact on all our children and young people that are placed in the London Secure Children's Home and the secure home is not expected to have any adverse impact on any groups listed under the protected characteristics.
25. This assessment identifies that within our Looked After Children cohort there is evidence of more minority ethnic groups are waiting for secure accommodation (both locally and nationally) and that the set up of London Secure Children's Home and the Pan London Vehicle will lead to better outcomes for those groups that are over represented.

Environmental and Climate Change Considerations

26. Overall, a positive environmental benefit is expected as more local placements will reduce travelling costs, both for the child but also the family and other organisations

Risks that may arise if the proposed decision and related work is not taken

27. There are clear benefits for London local authorities joining the PLV for commissioning and the joint development of Secure Children's Home provision for London. The key advantages are highlighted below:
- Development of secure provision in London increasing capacity locally and reducing the overall national shortfall in provision
 - Local provision for children with accompanying step-down arrangements will improve outcomes and reduce cost of future provision
 - Reduced staff travel time to meetings and visits and reduced transport costs
 - Reduced reliance on private care placement market and high-cost provision
 - Priority access to the provision
 - Access to provision at cost, whereas others will be charged a higher fee, to include cost of voids etc.

- Opportunity to shape the future Secure Children's Home and step-down provision and be part of ongoing governance
- Opportunity to be part of wider joint commissioning through the PLV in future such as addressing the shortfall in high-cost low incidence provision

There are risks associated with joining the vehicle and oversight of the London Secure Children's Home, which are highlighted alongside mitigating actions in the table below.

Risk	Mitigating action
Failure to achieve expected occupancy levels	The shortfall in provision in London and nationally makes this a very unlikely risk, although it could be experienced temporarily such as in the initial operating period or other scenarios highlighted below. Lower occupancy in the initial operating period has been modelled. Governance, management oversight and staffing will be key to ensuring good occupancy and these are built into current plans.
Unsatisfactory outcome from statutory inspections	Recruitment of experienced Registered Manager and other managers with experience of managing a similar provision. Regular monitoring and quality reviews will reduce this risk. Robust management and swift turnaround would be required if an inspection was less than satisfactory.
Child serious injury or death	Robust risk management policies, procedures and training. Strong practice model, safeguards, rigorous performance reviews and effective oversight, with experienced managers and staff who will be in place to minimise this risk.
Adverse publicity/Reputational damage from failure of the centre linked to the above or other factors	Proactive communications, strong practice model, safeguards, rigorous performance reviews and effective oversight, management and staffing will be implemented to minimise this risk.
Delayed to launch dates as a result of local authority sign off, process, procurement etc.,.	Working with other Pan-London authorities with contingencies and regular review by Pan-London boards.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

28. See above

Financial Implications

- 29.** In February 2022, DfE confirmed the funding to take a proposal forward for Secure Children's Home provision in London with 24 places, alongside step-down provision. Over £3 million has been allocated for development, with capital of over £50+ million expected subject to completion of the development phase. The development funding is currently being held by the London Borough of Barnet on behalf of all London local authorities.
- 30.** The fixed annual cost of joining the Pan-London Vehicle (PLV) for Commissioning is £20,000 per annum for a five-year period from 1st April 2023 to 31st March 2028.
- 31.** In addition to this, there will be a weekly fee for the placement when the new provision is operational.
- 32.** One of the benefits for PLV members is access to placements at a lower cost than non-PLV members.
- 33.** By joining PLV, Enfield will increase provision of local secure welfare, which will reduce the reliance on more costly alternative provision.
- 34.** The financial viability of this initiative will need to be reviewed in-line with the two-year break-point arrangement.

Financial implications provided by Sophia Bogich – 11.11.2022. Ref: FI22-0103

Legal Implications

(Legal implications provided by EM on 18/11/2022 based on the version of the report circulated on 11/11/2022 at 12:46)

- 35.** Section 111 Local Government Act 1972 gives a local authority power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The Council also has a general power of competence in section 1(1) Localism Act 2011 which states that a local authority has the power to do anything that individuals may do, provided it is not prohibited by legislation. The proposal set out in this report is in accordance with these statutory powers.
- 36.** The Council will need to ensure that all funding received from the Department for Education is managed and utilised in accordance with subsidy control regime and in accordance with the terms and conditions of any funding agreement.

37. The Council must further ensure that all legal agreements entered into in consequence of the approval of the proposals set out in this report must be approved by the Director of Law and Governance. In particular, legal team should be engaged from the early stages of the PLV's incorporation to provide full advice and safeguard the Council's interests.
38. The Council must always ensure compliance with its Constitution and in particular, its Contract Procedure Rules (CPRs).
39. The Council must also adhere to the Duty of Best Value in accordance with the Local Government Act 1999.
40. To ensure compliance with the above stated obligations, the Council is advised to create an internal project team with representatives from finance, procurement, legal and contract management to meet on a regular basis in order to feed into the work undertaken by the leading authority.

Further legal implications provided by SR on 2/11/2022 based on the version of the report circulated on 11/11/2022 at 12:46)

41. Section 20 of the Children's Act 1989 (the CA) places a duty on local authorities to provide accommodation for any child in need within their area if certain conditions are met or whose welfare is likely to be seriously prejudiced if accommodation is not provided.
42. Section 25(1) of CA prohibits placing a child who is being looked after by a local authority in accommodation provided for the purpose of restricting liberty (secure accommodation) unless a court determines that certain criteria are satisfied. This criteria includes a history of absconding and the likelihood of absconding from other types of accommodation. Where a court determines that the criteria are met, the person in charge of the accommodation may restrict the child's liberty to the extent that they consider appropriate having regard to the terms of any order made by a court under section 25.

Workforce Implications

43. There will be no workforce implications to the Council

Property Implications

44. There will be no workforce implications to the Council

Other Implications

Procurement Implications

45. The report seeks approval to participate in the establishment of a Pan-London Vehicle in principle. This is to enable the future commissioning, development, and delivery of a London-wide secure children's home for the benefit of the Council and other member contracting authorities.

46. To benefit from this arrangement and once properly established, the relevant conditions of Regulation 12 (*Public contracts between entities within the public sector*) of The Public Contracts Regulations 2015 (PCRs) would need to be fulfilled. Therefore, the jointly owned and controlled vehicle (Teckal company) would allow the Council and other member contracting authorities to buy services directly (from the company) as this would not be subject to the requirements of competitive tendering.
47. However, the Service Department will need to obtain advice from Legal Services, and Procurement Services for ongoing support throughout the process of joining the arrangement and when procuring services from the vehicle.
48. All governance processes must be followed by the Service Department to ensure transparency and accountability and to prevent any resultant liability to the Council.
49. Any procurement that may arise from the arrangement must be undertaken following the PCRs and the Council's Contract Procedure Rules (CPR) as appropriate.
50. Relevant evidence must be deposited on the London Tenders Portal (LTP).
51. The Service Department must assign suitable officers with responsibilities to manage this arrangement to ensure it is working well, and the Council is benefiting from it as intended, with regular joint reviews being put in place.

Implications provided by MJ and MG based on version of report circulated 11 November 2022.

Options Considered

52. The business case to address the need for Secure Welfare Provision, considered a range of options as listed below –

- Do nothing
- One small Secure Children's Home (8-12 places)
- One large Secure Children's Home (20-24 places)
- Two small Secure Children's Homes (8-12 places each)
- Enhancing existing resource
- Specialised community team
- Step-down facility
- Specialised open facility

53. These were evaluated through stakeholder engagement and assessment against the following criteria –

- Impact on early intervention and prevention
- Accessibility of a secure placement
- Continuity of care and relationships

- Care and education in the placement
- Transition from secure to community
- Value for money
- Initial investment
- Deliverability

54. This options analysis has led to the recommendation for Secure Welfare Children's Homes provision for London with capacity for 22 placements, alongside facilities for step-down accommodation and support to support the children after placement. The key reasons are summarised below –

Provision for 22 places would meet the demand in London

Step-down provision would enable better exit planning and work to take place to support children and young people within the community, reducing the likelihood of repeat placements in secure welfare

Step-down facilities will enable more holistic support to be provided to prevent unnecessary transitions into secure provision for children and young people on the edge of a secure placement

55. The following options were rejected for the reasons given:

- Enhancing existing resource - rejected due to the complexity of allocating resource to disparate CAMHS, social care and YOT teams across London and the lack of a joined-up approach across London.
- Specialised community team - rejected due to the risk of duplicating the role of Community Forensic CAMHS teams and fragmenting care pathways.

Conclusions

56. It is proposed that Enfield progresses with the Pan London Vehicle for Secure Children's Home provision in London with 22 places, alongside step-down provision. The step-down provision will provide for much improved transition after placement. Over £3 million has been allocated for development, with capital of over £50+ million expected subject to completion of the development phase. The development funding is currently being held by the London Borough of Barnet on behalf of all London local authorities. DfE is reviewing progress against gateway milestones, one of which is the commitment of local authorities in London. This report seeks that commitment.

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Appendices

Restricted Appendix A: Details of costs

Background Papers

The following documents have been relied on in the preparation of this report: