

London Borough of Enfield

Operational Decision

Meeting Date:

Subject: Enfield Children's Home
Cabinet Member: Abdul Abdullahi
Executive Director: Tony Theodoulou

Key Decision: KD5478

Purpose of Report

1. To seek approval to set up children's homes in Enfield and undertake a procurement process in order to appoint an external provider 'in borough' to deliver the care and support services for Enfield children in care.

Proposal(s)

2. The proposal of this report are:
3. To approve the proposal to identify and appropriate two suitable properties from Education to Children and Family Services for the use as a residential children's home consisting of;
 - Lot 1 – young people with challenging behaviour
 - Lot 2 – young people with complex needs
4. To approve commencement of a procurement process to appoint up to 2 care providers for a period of 5 years, plus an optional extension of up to 2 years.
5. To approve the submission of application for approval from Secretary of State for Education for the earmarked properties to be taken out of education use, which is to be progressed by the Education team.

Reason for Proposal(s)

6. There is a clear identified need for more residential placements than in previous years. The reason for Enfield commissioned residential homes are as follows:
 - Increase in the complex behaviours of children who could benefit from being in borough accessing local services such as CAMHS and other 'wrap-around' support.

- Demand for residential placements outstrips supply and this is likely to continue
 - High weekly cost of the current residential homes within the private sector
 - Young people being placed in homes which do not always meet all of their presenting needs.
7. The current commissioning arrangements are unable to provide in-borough sufficiency as most residential placements are spot-purchased
 8. Spot-purchasing residential beds is inefficient and not sustainable in the long-term without opening in house residential provisions as demand outstrips supply in this sector and private providers are able to demand a high fee for placements.
 9. Completing a successful tender process of the care for the residential provision will enable the Council to:
 - Establish greater certainty regarding future costs for residential placements in future years
 - Maintain more of Enfield's looked after children within borough, keeping educational, family and friends links including greater access to local support services.
 - Improve outcomes for some of our most vulnerable children and young people through the provision of bespoke placements based on Enfield's needs
 - Greater chance of unification with family or other step-down placements

Relevance to the Council Plan

10. The Enfield Children's Home proposal is part of the Enfield's Placement Sufficiency Strategy 2021-2026 and the Commissioning Framework 2020-2025.
11. This approach exemplifies our undertaking to ensure that looked after children will have access to provision locally which are specialised and allow us to deliver on the right outcomes for the children and young people.
12. Working with a private care provider allows us to bring in the right type of expertise and knowledge to provide for the most vulnerable children.

Background

13. Enfield is committed to ensuring, wherever possible, that children looked after receive the right type of placement
14. When a child comes into care and depending on their needs an option for some children is to be placed into residential care. Due to a lack of local placements, Enfield children are having to be placed away from the borough and sometimes many miles away from their parents, school and social

networks. Research evidence shows this consistently leads to poor outcomes for children.

15. In Enfield, we do not currently have any in-house or a contracted local provision and as a result Enfield purchases all our residential placements from private providers on a 'spot-purchase' basis.
16. In the financial year 2021/22 the spend on residential placements was, £7.2 million. 88% of children placed in residential care were placed outside of Enfield and in some instances many miles away. This means that the child is placed away from their home with the risk of them becoming socially isolated from education and their family and friends network.
17. In June 2022, there were 37 children and young people in care of Enfield who were placed in Residential care, including those who were jointly funded with health. Of these only 4 children (10.8%) were placed in Enfield.
18. Along with direct cost pressures from the additional children in care, for those children in residential settings there are further pressures for the Council, through time and costs incurred by social workers and other practitioners, such as Independent Reviewing Officers who are required to perform statutory functions. This in part has led the Council to consider its reliance on private residential providers and explore different delivery models which are more effective for children, deliver better outcomes and more efficient use of staff and financial resources.
19. Our Placement Sufficiency Strategy and the Commissioning Framework outlines a vision to open in borough provisions, acknowledging that our current reliance on spot purchasing for residential care has not delivered the desired outcomes.
20. This approach is based upon the premise that determining our commissioning and service requirements and developing provision with the private residential market on a competitive tender basis will help Enfield shape the market and give greater choice to Enfield's Looked After Children
21. The identified benefits from our approach include:
 - Provision reflects the needs of the children and young people
 - Development is needs driven and defined by the local authority
 - A good working partnership between the Local Authority and the provider is developed
 - Quality is contractually defined and locally assured
 - Services are local and can be tailored, allowing for specialist, targeted and emergency provision that is fit for purpose by design and concept
 - Placement stability and rehabilitation is positively influenced and managed as provision better matches needs.
22. The demand for residential provision is likely to increase in future years due to increasing numbers of children and young people in the care system which will, in turn, generate increased numbers in residential care. In addition, it is likely that there will be more young people who will require complex care and

this approach will explore different models of residential care based on therapeutic concepts.

23. With the support of Procurement Services, market engagement was widely advertised, enabling potentially interested providers to provide input and attend an engagement event. This has allowed the Council to obtain a good understanding from the market about the feasibility of the proposed service and gave the Council a chance to communicate its needs and high-level requirements to the market.

Main Considerations for the Council

24. Two properties (both ex-caretaker properties part of Raglan Primary School, EN1 and Caterhatch Primary School, EN1) are to be appropriated for these children's residential homes and will require refurbishing. The properties will require internal construction works and there will be a separate procurement process to appoint the contractor for refurbishment works. A separate detailed Operational report shall be prepared in order to obtain authority to procure for the refurbishment works.
25. The procurement process for the care provider will run concurrently with the construction design work and this is to allow the care service provider to be involved in the finishing of the Children's Home according to the service specification.
26. The properties once refurbished will have 3 bedrooms to accommodate 3 children in each property and one of the homes which will be complex need children will have some provision for therapeutic intervention and activities so that there is a focus on Positive Behaviour Support (PBS) for the young people placed.
27. The provision will also have access to outdoor garden space, so that young people are able to unwind outside without needing to leave the premises.

Safeguarding Implications

28. Both children's homes will be required to register with Ofsted and be required to have all the safeguarding policies in place.
29. Both children's home will be subject to annual quality assurance visits along with announced and unannounced visits, from the Access to Resources and Integrated Service.
30. In addition to the quality assurance visits by the Access to Resources Integrated Service, feedback will be requested from social workers and Independent Reviewing Officers
31. The 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.

Safeguarding implications provided by MA – 14.09.2022

Public Health Implications

32. This project is important and will help to provide residential spaces in the borough for many children particularly those who are vulnerable with complex behavioural needs In the current growing demand for residential placement. Residential homes which are specialist children's homes will allow for delivery of care and focussed on specific needs which are specialist; ultimately providing better tailored care for these children and hopefully resulting in improved outcomes. The presence of these residential homes in the borough will allow for the children from the borough to remain local and still have access to their families, friends and local livelihood.
33. There will hopefully be delivery of employment and commercial opportunities for those in the borough helping to alleviate absolute poverty within the borough - particularly relevant in the context of the current national cost of living crisis.
34. When deciding the location of these Children's Homes, there must be consideration of easy access to local community services such as GPs, dentists, pharmacies as well as CAMHS which is particularly essential for this group within the vicinity.
35. Furthermore, the developments should be designed in a way as to encourage physical activity and access to outdoor spaces within and around the Residential Homes to promote physical activity amongst the residents and employees in the Home.
36. During the developmental stage the building process will need to be monitored to ensure that there are no significant negative health impacts such as from noise/dust pollution during demolition and construction works. In addition, the design should take into account and ensure good ventilation and acoustic insulation is paramount.

Public Health implications provided by GS 26.09.2022

Equalities Impact of the Proposal

37. Section 149 of the Equality Act 2010 imposes a legal duty on all public bodies,
to consider the impact on equalities in all policy and decision making.
38. An Equalities Impact Assessment has been completed and enclosed with this report as appendix A. Based on this assessment it is anticipated that the Enfield children's home will have a positive impact on all our children and young people that are placed in the children's home and the home is not

expected to have any adverse impact on any groups listed under the protected characteristics.

Environmental and Climate Change Considerations

39. The opportunity for young people to live close to key relationships will support actions to positively support climate change intentions

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

Risk	Impact	Mitigation strategy
Delays to launch dates as a result of, local authority sign-off processes, procurement etc	Later start reduces benefits for children and impact on outcomes	Project planning in detail with contingencies and regular review by the Project Board
The Business case for the Capital Finance Board is rejected	Capital funding for the project is not approved	Finance have modelled the cost for the homes and will be presenting a robust Development and Investment Financial Framework (DIFF) to the Capital Finance Board
Risks that Providers do not reply to the tender opportunity	Delay in start and the process does not take off	Robust provider engagement process
Appropriate accommodation not identified and established	Delays to opening children's services leading to reduced impact on reducing at distance placements and improving outcomes for children	Early search and identification. Enfield property identified for Lot 1 and searches underway for Lot 2.
Children and public put at risk due to poor information sharing	Risk of harm to children and the public	All agencies supports appropriate and timely information sharing
Risk that the procurement does not deliver provision at lower cost to public expenditure and improve outcomes	Increased cost without improved outcomes	Thorough modelling and well planned procurement reduce risk. Break clauses enable provision to be terminated early if required
Ofsted not approving the registration of the new homes resulting in	Inability to open the homes up for placements	Early discussions with Ofsted to take place around registration of the

Risk	Impact	Mitigation strategy
an Ofsted refusal to register the new homes		new homes
Inability to provide education placements for our most complex children	Impacting on the young people's life chances increasing the likelihood of the young people becoming NEET (not in employment, education, employment or training)	SEN colleagues will be involved during the early stages, to address how we can provide this for our most complex children

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

40. Please see above.

Financial Implications

FI22-0033

Revenue Drafted by Sophia Bogich 09/12/2022

- 41. Two models were built: One for young people with challenging behaviour; and one for young people with complex needs.
- 42. A voids factor of 3.5% was used for the purpose of the modelling, as the service believes that the smaller homes make compatibility of house-mates easier and the demand for this type of residential provision is increasing. In addition, the risk of voids can be negated by selling the placements to neighbouring LAs.
- 43. The weekly fees cover all the costs of caring for the child and include direct staffing costs, all service co-ordination and development, direct support costs (laundry, cleaning, activity and recreation, clothing, welfare, all dietary needs), accommodation and property costs (maintenance, utilities).
- 44. These fees, however, are exclusive of the cost of rent or mortgage on the property. Enfield intend to source and provide the property for the service provider to utilise.
- 45. The savings for the proposals have been considered in MTFS for 2023/22.
- 46. It should be noted that the forecast is largely based on estimates and assumptions, derived from imperfect information. In addition, the emerging

crisis of cost of living, fuel cost hike and inflation rise, together with current uncertainty around property market and interest rates, makes the viability analysis challenging. In particular, the impact of inflation will likely affect the cost of materials and recent increases to PWLB rates will effectively increase the revenue cost of capital borrowing.

47. Furthermore, the prices may increase by the time tendering commences. Nevertheless, the price difference between the private provision and the proposed delivery model is expected to remain the same or widen, delivering a cost reduction objective of the initiative.
48. The service explored the possibility of block-booking the residential placements in the private market. However, there has been no interest from the current providers as the demand for the placements is very high due to a shortfall in supply and it is distinctively a seller's market. Furthermore, the services have been notified by several providers of the increase in weekly cost ranging from 6% to 10%.
49. On another hand, the contract for the outlined initiative could potentially fix the pricing for a number of years and help negate the inflationary cost increase. Although, given the level of price volatility, a fix contract over multiple years might be more expensive in the short-term if providers accommodate cost escalation in their pricing.
50. At last, there is a national drive for local authorities to increase in-house children's homes provision via expansion, refurbishment, or new building work. Enfield does not have any in-house provision and therefore, this initiative seems to enable these strategic objectives.

Legal Implications

Safeguarding Legal Implications provided by FH based on the report version received on 18.7.22)

51. s.20 Children Act 1989 stipulates that every local authority shall provide accommodation for any child in need in their area that requires accommodation as a result of 3 criteria. It is therefore appropriate for the LA to commission accommodation.
52. Once a property is selected for use as a Children's home the Local Authority will need to obtain the appropriate planning permission for the property, if the property has not been used as a children's home previously. In this case it appears to be a change from Class 3 "use as a dwelling house" to class C2 "provision of residential accommodation".
53. The Local Authority must also consider the Care Standards Act 2000 which set up the Commission for Social Care Inspection which established a new system of national minimum standards for all residential homes. Part 2 of the act stipulates that any Children's home must be registered (with Ofsted), or be guilty of an offence (CSA 2000, Part 2 (1)) punishable by a fine or

imprisonment. Once the Local Authority identifies a suitable property, the care provider identified to run the home will be required to appoint a named manager who will be person applying for Ofsted registration. A separate application will need to be made for each property.

Contracts and Procurement Legal Implications provided by OD based on the report version received on 13.01.23)

54. S.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, including its housing functions.
55. Furthermore, the general power of competence under s.1(1) Localism Act (2011) states that a local authority has the power to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. The proposal to procure care providers as mentioned within this report are therefore in accordance with the Council's powers.
56. The Council must always ensure compliance with its Constitution and in particular, its Contract Procedure Rules (CPRs). In accordance with CPR 10, the purpose of this report is to seek and obtain authority from the relevant Director/Cabinet Member to procure for the aforementioned services.
57. In accordance with CPR 10.1 the Council is expected to upload the authority obtained to proceed with procurement onto the E-Tendering Portal for contracts exceeding £500,000. Given the proposed value of this contract shall exceed the Light Touch Regime threshold (LTR), the procurement process must also be carried out in accordance with the Public Contracts Regulations (2015) ("PCRs (2015)").
58. In accordance with CPR 20 (Ethical and Sustainable Procurement & Council Policy) consideration at pre-procurement stage must be given to whether the Public Services (Social Value) Act 2012 applies to the services that will be provided under this arrangement.
59. In any tender there is a risk of legal challenge. This can be mitigated through legal advice being sought on the process (pre-commencement and throughout) and ensuring that all bidders are treated fairly and scored and evaluated in the same manner in accordance with the tender / procurement documentation.
60. The Council must comply with (and continue to comply with) its obligations relating to obtaining best value under the Local Government (Best Value Principles) Act 1999.
61. All procurement processes and any contracts awarded (including the professionals and legal advisers contemplated in proposal 6 of this report) must comply with the Council's Constitution, its CPRs and the PCR 2015.

No external legal advice is to be instructed or sought without the prior approval of Legal Services.

62. All legal documents entered into must be approved in advance of contract commencement by Legal Services on behalf of the Director of Law and Governance

Property Legal Implications provided by LO on 15.12.2022

63. The Council has power under section 120 of the Local Government Act 1972 to acquire land by agreement for the purpose of any of its functions or for the benefit, improvement or development of its area.
64. The Council's Property Procedure Rules provides a set of requirements at paragraph 8 in respect of proposed property acquisitions which must be complied with.
65. Appropriation decisions must be taken in accordance with the Council's governance processes, schemes of delegation and key decisions and must be in accordance with legislature or regulation in force at the time.
66. The general appropriation power is section 122(1) of the Local Government Act 1972. This allows the council to appropriate for any purpose for which the council is authorised any land which belongs to the council and is no longer required for that purpose for which it is held immediately before the appropriation
67. The proposed appropriation from Education to Children and Family Services requires the approval of the relevant Directors and a valuation. Appropriation does not involve a sale and purchase but requires accounting adjustments. Children services is to transfer funds matching the valuation of the properties appended to this report, to the budget from which the properties were previously being held. If the proposed funds would equate as an undervalue, justifications are set out in this report.
68. At the awarding stage of the contract, legal services will prepare a licence which would enable provider of services at these properties to occupy and provide the services

Workforce Implications

69. There would be no workforce implications as providers and suppliers will be appointed externally and employ their own staff. Providers bidding for the contract will be asked to demonstrate that they are an accredited London Living Wage Employer.

Property Implications

70. The Children's Home Team and Strategic Property Services have been liaising for some time in relation to the property requirement part of this DAR, and have determined that two separate properties will be required for the immediate property requirement.
71. One of the central tenets of the Council's Strategic Asset Management Plan (SAMP) is to reduce the Council's leased-in portfolio, and operate out of freehold-owned assets wherever it is feasible and viable to do so. In considering existing surplus freehold assets in preference to leasing in or purchasing new properties, two ex-service manager properties have been identified from within the Education portfolio. These are part of a set of surplus Education properties that already have Cabinet approval for either disposal or re-purposing for alternative operational use.
72. For these two properties to be taken out of education use, approval will be first needed from the Secretary of State for Education, which is currently being progressed by the Education team. However, it should be noted that the process for removing from education use will require their capital value to be recognised in the same way as a conventional disposal, i.e. a sum equivalent to their value made over for the specific benefit of the schools
73. Planning consent will be required as necessary for refurbishment and conversion works to the properties, as well as for change of use
74. Where a service provider needs to take an occupation of the new premises, this will require formalising into an agreement appropriate to the circumstances e.g. a lease or licence, which would need to reflect where responsibilities lie with each party as the service contract agreed with the service provider.
75. All new or revised asset data arising out of capital works to the properties must be sent by the Project Manager to Strategic Property Services for input onto the Asset Management Data System, including revised site plans, floor plans, asset information, etc. All relevant compliance-related activities will need to be put into place for these assets and appropriate contracts for servicing activities may be required. All works should be compliant with relevant legislation including CDM and Building Regulations. An inventory list of any materials procured and produced will need to be kept.

Other Implications

Procurement Implications

76. Any procurement must be undertaken in accordance with the Council's Contract Procedure Rules (CPR's), the Public Contracts Regulations (PCRs) and the Council's Sustainable and Ethical Procurement Policy. This procurement activity will go through the Procurement Services Assurance process and the necessary Gate Reports shall be prepared.

77. The value of the proposed procurement for the care provider(s) is expected to be above the relevant Threshold of the PCR's. This will mean the procurement must be conducted in accordance with the requirements of the PCR's.
78. The Procuring officer must keep records of approvals to proceed at each stage of this procurement in order to evidence compliance with the rules.
79. Properties for the purpose of setting up the proposed two 3-bedded children's homes must be conducted by Enfield Council's Property Services in line with the relevant guidelines including separate authority reports to be signed-off by the appropriate decision-making body of the Council.
80. At the end of the sourcing process, authority to award the contracts will be sought in line with the CPR's and Council's Governance. The Service Area shall ensure this procurement activity takes place via the Council's e-Tendering system, the London Tenders Portal (LTP).
81. All evidence of authority to procure and award the proposed contracts, as well as all contractual documents, including executed contracts, must be uploaded on to LTP.
82. Information regarding the awarded contracts must be promoted to Contracts Finder to comply with the Government's transparency requirements.
83. In accordance with the Council's CPR's, the service must ensure that a Contract Manager is nominated and allocated to the procurement once uploaded onto the LTP, and that the monitoring requirements are adhered to, including evidence of regular contract reviews.
84. Given the subject matter and value of the forthcoming contracts; robust contract management will be required.

Implications provided by MG & MJ – 09/09/2022.

Options Considered

85. Four main options are being considered
- Option 1 – Do nothing
 - Option 2 – Develop a fully in house provision
 - Option 3 – Block book with an existing children's home
 - Option 4 – Commission an external care service, with Enfield providing the property

It is proposed that the Council pursue option 4 as option 1 is not tenable at the moment, as current arrangements do not deliver sufficiency required at a reasonable cost. Option 2 would lead to Enfield running the home fully, which would require further resources and investment and increase timescales for delivery. The market appetite for option 3 is very low as current providers feel that there is enough demand within their existing homes so do not see a block contract within their existing homes as being attractive.

Conclusions

86. It is proposed that Enfield progresses with Option 4 as it allows for increased local choice whilst allowing to improve the unit cost for children in residential care. This option also allows us the flexibility to change a care provider if it was felt that Key Performance Indicators (KPIs) were not being met and Enfield's children were not having the desired outcomes.
87. In sourcing is not recommended for these provisions as the homes will require specialist staff who will need to be recruited and trained. Enfield does not have sufficient staff in-house with the expertise to run a children's home. This will also increase timescales for delivery of this service.
88. Outsourcing also removes any reputational risk away from the Council.

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Appendices

Appendix A - Equalities Impact Assessment
Appendix B - Restricted Appendix A – Capital Financial Implications

Background Papers

N/A