

**14 March 2018****Agenda Item: 8****REPORT OF THE INTERIM SERVICE DIRECTOR, COMMISSIONING AND  
RESOURCES****PROCUREMENT OF EXTERNAL RESIDENTIAL PLACEMENTS FOR  
LOOKED AFTER CHILDREN****Purpose of the Report**

1. The purpose of this report is:
  - a) to report to Committee on the use of the Financial Regulations Waiver introduced from April 2017 to facilitate off-contract spend that the Council is sometimes required to make in relation to children's care and specialist education placements; and
  - b) to update the Committee on plans to mitigate the amount of off-contract spend moving forward, though the establishment of a contracting arrangement for the procurement of high needs supported accommodation for Looked After Children and care leavers.

**Information**

2. A Financial Regulations Waiver was approved with effect from 1<sup>st</sup> April 2017 which established a formalised process that is compliant with financial regulations for the procurement of external placements for Looked After Children with particularly complex needs where a suitable placement cannot be obtained via the Council's established contracts for providing specialist residential care. Equally for those children and young people who might have special needs or disabilities identified through an Education Health and Care Plan and who require a particularly specialist education placement. This followed an earlier internal audit review which highlighted the issue of off-contract spend and recommended that steps be put in place to manage it in line with the Council's financial regulations.
3. In approving the Financial Regulations Waiver, there was an acknowledgement of the ongoing requirement for it given the specific circumstances that often surround the need to secure a placement outside of established contracts as set out in **paragraph 4**. At the same time, it was agreed that use of the Waiver be reported annually to Elected Members. Equally that further work be undertaken to assess other means by which these specialist placements might be captured within a more formalised commissioning arrangement.
4. The Council has its own block contract arrangements for the provision of residential care accommodation for Looked After Children and is also part of an East Midlands regional

framework that includes a number of suppliers of residential placements. Similarly, the Council has established the Nottinghamshire Approved Provider List through which specialist education placements are commissioned via the independent and non-maintained sector when all other educational options have been exhausted.

5. Nevertheless, there remains a number of cases where, in discharging its role as corporate parent, the Council has no alternative than to place a young person outside of any of these contracted arrangements. This is primarily due to there being a limited market for the provision of residential care and semi-independent accommodation for children and young people with specific special and/or complex needs. It can also arise when there is a need for an emergency care placement and there is no immediately available and/or suitable capacity within contracted arrangements to meet this need. Equally, the specialist education placement might have resulted from parental preference taking precedence and it identifying a school that is not on any local or regional contracts/frameworks. In all cases, officers responsible for securing the most appropriate care and/or education placement for a young person will seek firstly to do so via established contracts. Off-contract spend is, and will remain, the option-of-last-resort and will in any event be pursued only if it is deemed to be in the best interests of the Looked After Child or care leaver for whom the Council is the corporate parent.
6. In the period from April 2017 to February 2018, the Financial Regulations Waiver was used on a total of 58 occasions. This comprised the procurement of specialist education provision at two schools, and residential care placements at 56 establishments. The forecast spend on these placements during this period is £19,566 on education placements and £3,960,724 on different types of specialist residential care placements, e.g. independent fostering agencies and semi-independent accommodation, together with secure accommodation / specialist placements that include both care and education provision.
7. A new procurement process will be established later this year that will seek to ensure suppliers of semi-independent accommodation that are not currently included on any of the existing frameworks that the Council has access to, are listed on an approved supplier list. A successful market engagement event took place in January 2018 and it is expected that the new process will become operational from May 2018.
8. This new process for semi-independent accommodation will work in the same way as specialist education placements are currently sourced. Evidence shows that many providers elect to join this approved provider list because it facilitates a smoother payment process and ensures priority consideration for future placements. That said, it has not completely alleviated the need to procure specialist education placements off-contract and likewise will not do so for residential care placements either. Suppliers cannot be compelled to register as an approved supplier and there is no guarantee that those who do will be able collectively to meet all of the Council's specialist care and education placement needs into the future. However, it will extend the number and range of providers with whom the Council has a formal contractual relationship, and registered suppliers will be prioritised if they are able to meet the specific needs of the child or young person in question.

## **Other Options Considered**

9. Alongside the introduction of the process for procuring semi-independent accommodation, officers are continuing to assess the relative merits of establishing additional block contract arrangements for residential care placements to provide specifically for children and young people with the type of complex and specialist needs that the Council is unable to place within existing contractual arrangements. However, this would be a longer term option that would be implemented so as to complement existing local and regional frameworks for residential care placements.
10. Additionally, the existing East Midlands Regional Care Framework opens annually to allow new providers to enter on to this framework. It is hoped that this exercise will result in a further increase in the number of organisations with whom the Council can 'call off' from this.
11. Finally, whilst there is no existing regional framework for the procurement of specialist education placements, there is currently a regional project sponsored jointly by the nine East Midlands Children's Services Authorities that is assessing the feasibility and relative merits of a regional approach to address the increasing demand and cost of specialist education placements. Again, it is considered that any proposals arising from this will be complementary to the existing arrangements within Nottinghamshire.

### **Reason for Recommendations**

12. The recommendations address the key issue identified in the audit report with regard to off-contract spend, and fulfil the reporting obligations set out when the Financial Regulations Waiver was approved in March 2017 to deal with the circumstances that require a child or young person to be placed in a residential care or residential care setting for which the Council does not have a pre-existing contractual relationship.

### **Statutory and Policy Implications**

13. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Financial Implications**

14. The specialist nature of these placements is reflected in the weekly cost which tends to be more expensive than those that can be obtained under existing contractual arrangements e.g. the block contract, but through which a suitable placement cannot always be sourced. These costs are met from within existing budgets, including the Dedicated Schools Grant, and can experience considerable pressure as the number of specialist placements and their weekly costs increase. The options set out in this report seek to ensure that the procurement of these placements is undertaken in line with the Council's financial regulations. Where there arises the need for a particularly specialist and /or complex placement that cannot be sourced from within existing contractual arrangements, this will

be facilitated through the use of the Financial Regulations Waiver and reported to committee.

### **Safeguarding of Children and Adults at Risk Implications**

15. The Council will, in all cases, seek to discharge its statutory duty as corporate parent by considering what is in the best interests of the Looked After Child concerned. Within this context, off-contract spend will only be pursued when all of the suitable placement options for which the Council has pre-existing contractual arrangements have been explored. It will in any event be considered only if it is deemed to be in the best interests of the child or young person, whether they be LAC and / or in receipt of an EHCP.

### **RECOMMENDATION/S**

That:

- 1) Members consider whether there are any further actions they require beyond those set out within the report to reduce the amount of off-contract spend that might otherwise be incurred in relation to specialist care and education placements for vulnerable children and young people
- 2) further reports on the continuing use of the Financial Regulations Waiver be included within the report annual report to Committee on the use of Financial Regulations Waivers across the Council, and also following the upcoming internal audit review of the children in care placements service.

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### **Constitutional Comments (LM22 /02/18)**

16. The Governance and Ethics Committee is the appropriate body to consider the contents of the report.

### **Financial Comments (SS 06/03/18)**

17. The financial implications are set out in paragraph 14 of the report.

### **Background Papers and Published Documents**

None.

**Electoral Division(s) and Member(s) Affected**

All.

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