

Cabinet

Wednesday 17 January 2018

10.00 am Luttrell Room - County Hall, Taunton



To: The Members of the Cabinet

Cllr D Fothergill (Chairman), Cllr D Hall (Vice-Chair), Cllr A Groskop, Cllr D Huxtable, Cllr C Lawrence, Cllr F Nicholson and Cllr J Woodman

All Somerset County Council Members are invited to attend meetings of the Cabinet and Scrutiny Committees.

Issued By Julian Gale, Strategic Manager - Governance and Risk - 9 January 2018

For further information about the meeting, please contact Michael Bryant or Scott Wooldridge or 01823 357628 swooldridge@somerset.gov.uk

Guidance about procedures at the meeting follows the printed agenda.

This meeting will be open to the public and press, subject to the passing of any resolution under Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

This agenda and the attached reports and background papers are available on request prior to the meeting in large print, Braille, audio tape & disc and can be translated into different languages. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers



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AGENDA

Item Cabinet - 10.00 am Wednesday 17 January 2018

**** Public Guidance notes contained in agenda annexe ****

1 **Appointment of Chair**

2 **Apologies for Absence**

3 **Declarations of Interest**

Details of Cabinet Member interests in District, Town and Parish Councils will be displayed in the meeting room. The Statutory Register of Member's Interests can be inspected via the Community Governance team.

4 **Minutes from the meeting held on 13 December 2017 (Pages 5 - 8)**

5 **Public Question Time**

The Chair will allow members of the public to present a petition on any matter within the Cabinet's remit. Questions or statements about any matter on the agenda for this meeting may be taken at the time when each matter is considered.

6 **South West Peninsula Framework Contract for Independent Fostering (Pages 9 - 26)**

To consider the report.

7 **Confirmation of National Funding Formula for Schools and High Needs (Pages 27 - 32)**

To consider the report.

8 **Any other urgent items of business**

The Chair may raise any items of urgent business.

Agenda Annexe

THE MEETING – GUIDANCE NOTES

1 Inspection of Papers or Statutory Register of Member's Interests

Any person wishing to inspect reports or the background papers for any item on the agenda or inspect the Register of Member's Interests should contact Scott Wooldridge or Mike Bryant on (01823) 359048 or 357628 or email mbryant@somerset.gov.uk

2 Notes of the Meeting

Details of the issues discussed and decisions taken at the meeting will be set out in the Minutes, which the Cabinet will be asked to approve as a correct record at its next meeting. In the meantime, details of the decisions taken can be obtained from Scott Wooldridge or Mike Bryant on (01823) 357628 or 359048 or email mbryant@somerset.gov.uk

3 Public Question Time

At the Chair's invitation you may ask questions and/or make statements or comments about **any matter on the Cabinet's agenda**. You may also present a petition on any matter within the Cabinet's remit. **The length of public question time will be no more than 30 minutes in total.**

A slot for Public Question Time is set aside near the beginning of the meeting, after the minutes of the previous meeting have been signed. However, questions or statements about any matter on the agenda for this meeting may be taken at the time when each matter is considered.

If you wish to speak at the meeting or submit a petition then you will need to submit your statement or question in writing to Mike Bryant by 12.00pm on Friday prior to the meeting. You can send an email to mbryant@somerset.gov.uk or send post for attention of Mike Bryant, Community Governance, County Hall, Taunton, TA1 4DY.

You must direct your questions and comments through the Chair. You may not take direct part in the debate.

The Chair will decide when public participation is to finish.

If there are many people present at the meeting for one particular item, the Chair may adjourn the meeting to allow views to be expressed more freely.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

An issue will not be deferred because you cannot be present at the meeting.

Remember that the amount of time you speak will be restricted normally to two minutes only.

4 Hearing Aid Loop System

To assist hearing aid users, the Luttrell Room has an infra-red audio transmission system. This works in conjunction with a hearing aid in the T position, but we also need to provide you with a small personal receiver. Please request one from the Committee Administrator and return at the end of the meeting.

5 Emergency Evacuation Procedure

In the event of the fire alarm sounding, members of the public are requested to leave the building via the signposted emergency exit, and proceed to the collection area outside Shire Hall. Officers and Members will be on hand to assist.

6 Cabinet Forward Plan

The latest published version of the Forward Plan is available for public inspection at County Hall or on the County Council web site at:
<http://www.somerset.gov.uk/irj/public/council/futureplans/futureplan?rid=/guid/505e09a3-cd9b-2c10-89a0-b262ef879920>.

Alternatively, copies can be obtained by telephoning (01823) 359048 or 357628.

7 Excluding the Press and Public for part of the meeting

There may occasionally be items on the agenda that cannot be debated in public for legal reasons (such as those involving confidential and exempt information) and these will be highlighted in the Forward Plan. In those circumstances, the public and press will be asked to leave the room while the Cabinet goes into Private Session.

8 Recording of meetings

The Council supports the principles of openness and transparency, it allows filming, recording and taking photographs at its meetings that are open to the public providing it is done in a non-disruptive manner. Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings and a designated area will be provided for anyone who wishing to film part or all of the proceedings. No filming or recording will take place when the press and public are excluded for that part of the meeting. As a matter of courtesy to the public, anyone wishing to film or record proceedings is asked to provide reasonable notice to the Committee Administrator so that the relevant Chair can inform those present at the start of the meeting.

We would ask that, as far as possible, members of the public aren't filmed unless they are playing an active role such as speaking within a meeting and there may be occasions when speaking members of the public request not to be filmed.

The Council will be undertaking audio recording of some of its meetings in County Hall as part of its investigation into a business case for the recording and potential webcasting of meetings in the future.

A copy of the Council's Recording of Meetings Protocol should be on display at the meeting for inspection, alternatively contact the Committee Administrator for the meeting in advance.

THE CABINET

Minutes of a Meeting of the Cabinet held in the Luttrell Room, County Hall, Taunton, on Wednesday 13 December 2017 at 10am.

PRESENT

Cllr D Fothergill (in the Chair)

Cllr A Groskop
Cllr D Hall
Cllr D Huxtable
Cllr C Lawrence
Cllr F Nicholson
Cllr J Woodman

Junior Cabinet members:
Cllr C Aparicio Paul
Cllr F Purbrick
Cllr Fraschini
Cllr G Verdon

Other Members present: Cllr H Davies, Cllr L Leyshon, Cllr J Lock, Cllr T Lock, Cllr T Munt, Cllr L Redman and Cllr B Revans

Apologies for absence: None

56 **DECLARATIONS OF INTEREST** – agenda item 2

Members of the Cabinet declared the following personal interests in their capacity as a Member of a District, City/Town or Parish Council:

Cllr A Groskop	South Somerset District Council
Cllr J Woodman	Sedgemoor District Council

Junior Cabinet Members declared the following personal interests in their capacity as a Member of a District, City/Town or Parish Council:

Cllr C Aparicio Paul	South Somerset District Council
Cllr F Purbrick	Yeovil Town Council

57 **MINUTES OF MEETINGS OF THE CABINET HELD ON 15 NOVEMBER 2017** - agenda item 3

The Cabinet agreed the minutes and the Chair signed these as a correct record of the proceedings.

58 **PUBLIC QUESTION TIME (PQT)** – agenda item 4

There were no public questions.

59 **DECISION TO CONCLUDE THE AWARD OF A CONTRACT FOR THE PROVISION OF HIGHWAY IMPROVEMENTS AT COLLEY LANE SOUTHERN ACCESS ROAD** - agenda item 5

The Cabinet Member for Highways and Transport, Cllr John Woodman, introduced the report, noting that: the new road was in the South of Bridgwater; included two new bridges; and would reduce congestion. The Cabinet Member further noted that he was pleased to recommend the proposals to Cabinet.

The Lead Director for Economic and Community Infrastructure and Director of Commissioning, Paula Hewitt, informed Members that: a robust procurement process had been completed; a funding package was in place; the proposal had been in development for some time; and that subject to Cabinet's approval work would start in early 2018, with a projected summer 2019 completion.

The Strategic Commissioning Manager – Highways and Transport further emphasised that the contract award had been subject to a robust procurement process.

Further points raised in debate included: timescales for project delivery; ensuring prompt payment of Section 106 monies; the process for ensuring the financial stability of potential contractors; social value and apprentices; links to service plans; recognition that traffic often originates or ends elsewhere; and S106 mitigation packages with particular reference to the Stockmoor and Willstock developments park and ride provision and bus services.

In response to the points raised in debate officers confirmed: there was a robust process in place regarding the receipt of S106 monies; contractors were subject to a robust due diligence process and payments were made in arrears; and that social value had been considered and outreach work with local schools was being undertaken, along with best endeavours to ensure the use of local labour and apprenticeships.

The Chair summarised the points raised in debate and noted that he was delighted that the proposals were being brought before the Cabinet today. The Chair further asked if there was support for the proposal and it was noted that both the junior cabinet members and the cabinet members were in consensus.

Following consideration of the officer report, confidential appendix and discussion the Cabinet **RESOLVED** to:

1. Agree to award a contract for highway improvements and associated works to deliver the Colley Lane Southern Access Road to the supplier identified in Appendix A, following a competitive process.
2. Agree to allocate a maximum sum of £4.004m towards the scheme funded from the Council's capital programme to ensure scheme

construction can commence whilst other funding sources continue to be explored. A proportion of this is contingency funding released from other major transport projects.

3. Agree the case for exempt information for Appendix A to be treated in confidence, as public disclosure of the commercially sensitive data contained within would prejudice the Council's position in ensuring competitiveness of future tender processes.
4. To note that the County Council reserves the right to not proceed with the award of a contract should new information come to light during the standstill period and/or before entering into a contract. In this instance, it is recommended that the ECI Commissioning Director and the Director of Commercial and Business Services be given joint delegated authority to take any necessary action to protect the Council interests - this could include a decision not to enter into a contract and go back out to market.

ALTERNATIVE OPTIONS CONSIDERED: As set out in the officer report

REASON FOR DECISION: As set out in the officer report

60 **IMPLEMENTATION OF THE NATIONAL FUNDING FORMULA FOR SCHOOLS AND HIGH NEEDS – agenda item 6**

The Cabinet Member for Children and Families, Cllr Frances Nicholson, introduced the report noting that: Somerset was in the bottom 40 funded LAs for education; the Secretary of State had published a 'soft' national funding formula, but this was expected to be fully implemented in time; Somerset has received a 3% increase, but this was from a low base point; the funding changes were more significant for secondary schools; Schools Forum supported the proposals; and schools were guaranteed at 0.5% per pupil increase, but this would be limited by a cap.

The Strategic Finance Manager – Adults, Children and Public Health added to the points noted by Cllr Nicholson, highlighting that: a further paper regarding the final funding allocations would be brought to the Cabinet's January meeting; the Council would continue to lobby government regarding the removal of the funding cap; all schools had been consulted; and that the recommendations were currently only for the 2018/19 financial year. The Strategic Manager further noted that Appendix A included details of the consultation response and that Appendix B detailed the timetable for implementation.

Further points raised in the debate included: the importance of continuing to lobby government; clarification of the terminology 'disapplying'; and ensuring that middle schools are not disadvantaged.

In response to the points raised in debate, officers clarified that: 'disapplying' was central government terminology; and that middle schools would not be disadvantaged and would receive a proportion of primary and secondary school funding.

The Chair further asked if there was support for the proposal and both the junior cabinet members and cabinet members were in consensus.

Following consideration of the officer report, appendices and discussion the Cabinet **RESOLVED** to approve:

1. The approach recommended by Somerset Schools Forum on 21 November 2017 in relation to funding for Schools and High Needs for 2018/19, the final values of which will require approval by Cabinet on 17 January once values are published by the Education and Skills Funding Agency (ESFA) in December 2017.
2. Application to the Department for Education (DfE) to disapply the Minimum Funding Guarantee calculation for Pupil Referral Units in 2018/19 (see paragraph 1.16)

ALTERNATIVE OPTIONS CONSIDERED: As set out in the officer report

REASON FOR DECISION: As set out in the officer report

61 **ANY OTHER URGENT ITEMS OF BUSINESS** – agenda item 7

At the Chair's invitation, the Cabinet took the opportunity to wish Cllr David Huxtable a happy birthday.

(The meeting ended at 10.32am)

CHAIR

Decision Report – Cabinet Decision

17 January 2018

South West Peninsula Framework Contract for Independent Fostering

Cabinet Member(s): Cllr Frances Nicholson – Cabinet Member for Children and Families

Division and Local Member(s): All

Lead Officer: Philippa Granthier - Assistant Director – Commissioning and Performance

Author: Louise Palmer, Strategic - Commissioner for Children and Young People

Contact Details: 07818 529158

	Seen by:	Name	Date
	County Solicitor	Honor Clarke	20/12/17
	Monitoring Officer	Julian Gale	21/12/17
	Corporate Finance	Kevin Nacey	03/01/18
	Human Resources	Chris Squire	03/01/18
	Property / Procurement / ICT	Richard Williams	03/01/18
	Senior Manager	Julian Wooster	03/01/18
	Local Member(s)	All	N/A
	Cabinet Member	Cllr Frances Nicholson	03/01/18
	Opposition Spokesperson	Cllr Jane Lock	03/01/18
	Relevant Scrutiny Chairman	Cllr Leigh Redman	03/01/18
Forward Plan Reference:	FP/17/09/05		
Summary:	<p>This report gives information regarding the recommendation to award a framework contract for Independent Fostering in Somerset.</p> <p>Somerset is part of the Peninsula Commissioning and Procurement Partnership (PCPP), a longstanding collaboration between Cornwall Council, Devon County Council, Plymouth City Council, Torbay Council and Somerset County Council. Devon County Council (DCC) is leading the joint procurement on behalf of the partnership.</p> <p>Since 2006 the council has collaborated with the Peninsula to purchase fostering placements from the independent sector. The current framework expires on 31st March 2018. A competitive tender exercise has been carried out, the deadline for which was 26th October 2017, and Independent Fostering providers have submitted bids for admission to the new framework. The new framework will commence on 1st April 2018 for a period of 4 years.</p> <p>A previous procurement carried out in December 2016 resulted in a decision not to award the contract. The new procurement has addressed issues which emerged from this process.</p>		

	<p>In a non-key decision taken on 14th September 2017 (Appendix A) the Director of Children’s Services authorised Somerset’s participation in the Peninsula procurement process.</p> <p>It is anticipated that Somerset County Council’s spend on independent fostering placements in 2017/18 will be in the region of £6.1 million. If this level of placement were to continue it is anticipated that Somerset County Council’s spend on independent fostering placements would be in the region of £26.6 million over the 4 year framework.</p> <p>As at September 2017, Somerset County Council had 154 children looked after placed with independent fostering agencies, compared with 217 placed in in-house foster care and 50 in residential provision.</p>
<p>Recommendations:</p>	<p>That Cabinet authorises the Director of Children’s Services to enter into the Peninsula Framework for independent fostering for a period of 4 years (48 months) from 1st April 2018.</p>
<p>Reasons for Recommendations:</p>	<p>Without a framework in place, future purchases of independent fostering placements after 31st March 2018 are likely to be made as spot purchases with individual contracts. This is a risk at the point of purchase, when we will rely on our placements team to negotiate a good price. The framework provides clarity of costs for all, although is still open to negotiations at the point of placement. The framework agreement will aim to achieve improved value for money for placing authorities through greater transparency of pricing and competition through call-off.</p> <p>The Peninsula framework will increase the supply of high quality, locally available placements in a family setting. In order to achieve positive outcomes for vulnerable children and young people, there is a focus on supporting placement stability and permanence for children and young people.</p>
<p>Links to Priorities and Impact on Service Plans:</p>	<p>This decision directly links to actions in the Children and Young People’s Plan (CYPP) and supports the priorities within the County Plan around Children’s Services. It also links to the Council’s Social Value Policy as working together across the Peninsula area will maximise the impact of public expenditure.</p>
<p>Consultations and co-production undertaken:</p>	<p>A bidders’ day was held on 5th October 2017 to consult and engage with Independent Fostering Agencies. This engagement informed the procurement process and resulted in a more robust and successful exercise than that carried out in December 2016.</p>

	<p>Consultees listed in this document were consulted from 19th December 2017 to 3rd January 2018.</p> <p>No comments were received from elected members.</p>
<p>Financial Implications:</p>	<p>A financial analysis has been completed utilising proposed price submissions, set against the current placement price for the children and young people in placement, removing all those who will be 18 by the time the new contract begins on 1st April 2018.</p> <p>The new framework tender has resulted in an increase in placement prices. The overall impact if applied to all children and young people currently in placement is £0.53 million per year over the length of the framework agreement, representing an increase of 8.4% on forecasted spend on independent foster placements for the next financial year. This is an indicative cost which does not take into the account the ability of the Placements Team to negotiate discounts at the discretion of providers. Historically, the Placements Team has often been able to negotiate up to a 5% discount on the framework placement cost. If we were able to continue this strong record, it could reduce the cost pressure by up to £300k per annum.</p> <p>As the un-awarded tender in 2016 shows (providers were resistant to any kind of further price constraint, even removing themselves from future contractual arrangements as a result. Pursuing the prices in the 2016 tender would have had a significant impact in the medium to long term on local placement sufficiency, and the effectiveness of any contractual arrangements. The cost of care in the fostering market has risen in this time, with foster carers increasingly being able to ‘shop around’ for the agency which offers them the best support and reward. Due to the complexity of the children and young people being placed, agencies have had to ensure they have access to staff with the right skills to support this complexity, as well as offering multi-faceted training packages to meet a variety of needs.</p> <p>The average cost for a fostered 11-15 year old from the current framework is £836. The new tender provides an average cost of £906 for this age group. This is an increase of 8.4%.</p> <p>The transfer of existing packages of care to the new framework will involve a robust review of any packages with additional support, ensuring that this is reduced if it is no longer needed or being supplied. The new framework provides clear parameters for additional support payments, requiring carers to have had relevant training and skills to be able to manage complex behaviours. If the agency cannot demonstrate this, the additional payment will not be made. The existing framework (which ends on 31st March 2018) did not include quoted rates for specialist provision, whereas the new framework specifically requested these as part of the tender process. Having access to the</p>

	<p>providers' quoted rates for additional and complex support as part of the new framework will enable us to have more control in price negotiations.</p> <p>Regular meetings with each fostering agency will be held, enabling Somerset County Council to provide support and challenge on each agency's direction of travel, informing local recruitment drives and encouraging agencies with greater financial efficiency to grow.</p> <p>In line with our agreed Somerset Sufficiency Statement for Children Looked After and Care Leavers 2016-19, Somerset County Council's approach is to utilise our in-house service first before searching for placements in the independent market. Our in-house service recruited 24 foster carer households (excluding Connected Persons) in 2016-17 and recruitment activity targeted provision of placements for children 10 and over with more complex needs.</p> <p>The aim is to recruit an additional 40 in-house foster carers during 2018-19 (excluding Connected Persons), which will contribute to reducing the authority's use of independent fostering agencies as much as possible. Estimates indicate that if 36 more children were placed with Somerset's in-house foster carers, this would offset the indicative £0.53m annual increase of the fostering framework cost.</p> <p>Investing in fostering capacity and skills is crucial to reducing the council's use of residential care for children looked after. It is already the case that fostering provision, with any additional support or enhancement required for complex care needs, is thoroughly explored before children are considered for residential care. The use of the Peninsula framework will provide Somerset with a wider range of fostering options so that we reduce our use of residential provision. The average weekly cost currently of a residential placement is approximately £4,300 (compared with £549 for an in-house fostering placement and £827 for an independent fostering placement) but this can be significantly higher for children with complex needs. In this context, the cost of an independent fostering placement, even with the new framework rates, is more cost effective.</p> <p>The Children's Commissioning Team works closely with fostering providers and is focused on building and maintaining relationships, quality and capacity of provision with the sector. Working with providers will enable us to increase their focus on recruitment within Somerset, potentially increasing the number of foster carers in the County.</p>
<p>Legal Implications:</p>	<p>Somerset County Council has a statutory duty to provide sufficient placements for children looked after which meet their needs. Independent fostering providers are essential to meeting the demand for placements in Somerset.</p>

	<p>The procurement of the Peninsula Framework was undertaken by DCC on behalf of the partner authorities. The partners remain liable for any breaches of procurement law by DCC. For this reason it would be advisable to obtain indemnities from DCC against any losses that SCC incurs as a result of errors made during the procurement. The risk of losses arising to SCC in this case is not known although SCC has significant experience of working with DCC on joint procurements.</p>						
<p>HR Implications:</p>	<p>No HR implications to be considered.</p>						
<p>Risk Implications:</p>	<p>If the Council were to rely heavily upon independent fostering agencies to provide placements to children looked after, there is a risk of overspend. The mitigation for this is searching for an in-house fostering placement first, which costs the Council less, and to continue to recruit more in-house foster carers to increase capacity.</p> <p>However, without adequate fostering provision Somerset County Council would need to make increased use of residential provision which is significantly more expensive. The average weekly cost of a residential placement is approximately £4,300 (compared with £321 for an in-house fostering placement and £827 for an independent fostering placement).</p> <table border="1" data-bbox="513 1144 1466 1182"> <tr> <td>Likelihood</td> <td>3</td> <td>Impact</td> <td>3</td> <td>Risk Score</td> <td>9</td> </tr> </table>	Likelihood	3	Impact	3	Risk Score	9
Likelihood	3	Impact	3	Risk Score	9		
<p>Other Implications (including due regard implications):</p>	<p><u>Equalities Implications</u></p> <p>The service is expected to have a positive impact on looked after children in Somerset.</p> <p><u>Community Safety Implications</u></p> <p>No implications foreseen.</p> <p><u>Sustainability Implications</u></p> <p>No implications foreseen.</p> <p><u>Health and Safety Implications</u></p> <p>No implications foreseen.</p> <p><u>Privacy Implications</u></p> <p>No implications foreseen.</p>						

	<p><u>Health and Wellbeing Implications</u></p> <p>Providing sufficient foster placements within Somerset is expected to have a positive impact on the mental health and wellbeing of children looked after in Somerset. Children thrive more in a family environment and wherever possible being placed close to home, school or social networks as appropriate for the needs of the child.</p>
<p>Scrutiny comments / recommendation (if any):</p>	<p>Not applicable.</p>

1. Background

- 1.1. Somerset is part of the Peninsula Commissioning and Procurement Partnership (PCPP), a longstanding collaboration between Cornwall Council, Devon County Council, Plymouth City Council, Torbay Council and Somerset County Council. Devon County Council (DCC) is leading the joint procurement on behalf of the partnership.
- 1.2. Since 2006 the council has collaborated with the Peninsula to purchase fostering placements from the independent sector. The current framework expires on 31st March 2018. A competitive tender exercise has been carried out, the deadline for which was 26th October 2017, and Independent Fostering providers have submitted bids for admission to the new framework. The new framework will commence on 1st April 2018 for a period of 4 years.

2. Options considered and reasons for rejecting them

- 2.1 Without a framework in place, future purchases of independent fostering placements after 31st March 2018 are likely to be made as spot purchases with individual contracts. This is a risk at the point of purchase, when we will rely on our placements team to negotiate a good price.
- 2.2 Discussions have taken place between Children's Social Care Commissioning and Commercial and Procurement Team colleagues during which alternatives to awarding the framework agreement were discussed, as follows:
 1. Somerset County Council led framework agreement/range of contractual arrangements separate from and outside of the PCPP framework agreement.

This could be procured as an alternative to the PCPP framework agreement, i.e. SCC chooses not to participate in the PCPP framework agreement at all and procures an SCC-specific arrangement instead; or to complement the PCPP framework agreement, i.e. SCC chooses to use the PCPP framework agreement and also procure an additional SCC arrangement alongside.

Pros:

- An additional arrangement may provide further options besides those already available via the PCPP framework agreement, both in terms of different providers and more favourable pricing
- To the extent that SCC is able to understand from Devon County Council (lead procuring authority for the PCPP framework agreement) whether providers raised any red flags as part of the PCPP procurement procedure as to variables that could have been changed during the procedure that would have had an effect on pricing, it may be possible to take account of those factors when designing an alternative procurement procedure and accompanying procurement documents such that SCC is able to influence the pricing and commercial position of providers to the benefit of SCC

Cons:

- It is not clear at this point whether an alternative or additional arrangement would deliver any greater value for money and in fact it could be assumed that it would not, given that SCC would not be able to take advantage of the leverage available to us through collaboratively procuring with a range of other local authorities
 - Procuring an alternative or additional arrangement may serve to undermine not only the PCPP procurement procedure but also SCC's wider credibility in the market. It is a fairly well established principle that despite the fact that local authorities have the discretion not to award a contract or framework agreement once procured, they ought not to use procurement procedures to simply understand bidder's commercials for the purposes of benchmarking. Furthermore, this course of action may undermine SCC's position with its PCPP partners and again undermine its influence in relation to future collaborative procurement that SCC may wish to participate in
2. Other viable framework agreements already in existence. It may be the case that SCC has access to properly procured arrangements already in place that have financial advantages over the PCPP framework agreement, which could be used as an alternative. Some work has been done to understand the extent to which those alternatives exist, but it is reasonable to suggest that SCC has not approached every viable County or Unitary Council to ask the question. However, it is worthy of note that out of those authorities already approached, that being Bath and North East Somerset and Southampton City Council on behalf of the Southern consortia of local authorities (which includes the majority of local authorities across the Southern part of the United Kingdom), neither or their already procurement framework agreements were open to SCC for use. Children's Social Care Commissioning colleagues have not pursued other opportunities beyond the South of England thus far on the basis that there is a geographical influence on pricing such that it has been considered that even in the event that framework agreements covering authorities in the North of England, but which are also open for SCC to use, may not be truly representative of the nature of the expenses claims that would be incurred as part of the contract costs.

3. Background Papers

- 3.1. Appendix A – Peninsula Fostering Framework Tender, Non-key decision by the Director of Children's Services, 14th September 2017

Somerset County Council Sufficiency Statement for Children Looked After and Care Leavers 2016-2019 <http://www.somerset.gov.uk/childrens-services/care-and-chaperoning/children-in-care/>

Somerset Children and Young People's Plan 2016-2019 <http://www.somerset.gov.uk/policies-and-plans/plans/children-and-young-peoples-plan/>

Somerset County Council Fostering Service Annual Report, April 2016 – March 2017

<http://www.fosteradoptsomerset.org.uk/wp-content/uploads/2014/09/Fostering-Service-Annual-Report-April-2016-March-2017-Final-1.pdf>

Equality Impact Assessment Form and Action Table 2015

(Expand the boxes as appropriate, please see guidance
(www.somerset.gov.uk/impactassessment) to assist with completion)

"I shall try to explain what "due regard" means and how the courts interpret it. The courts have made it clear that having due regard is **more than having a cursory glance** at a document before arriving at a preconceived conclusion. Due regard requires public authorities, in formulating a policy, to give equality considerations the weight which is **proportionate in the circumstances**, given the potential impact of the policy on equality. It is not a question of box-ticking; it requires the equality impact to be **considered rigorously and with an open mind.**"

Baroness Thornton, March 2010

What are you completing the Impact Assessment on (which policy, service, MTFP reference, cluster etc)?

South West Peninsula Framework Contract for Independent Fostering

Version

1

Date

6/12/17

Section 1 – Description of what is being impact assessed

This decision recommends that Somerset County Council awards the South West Peninsula framework contract for independent fostering. A procurement process has been carried out by Devon County Council on behalf of the South West Peninsula Partnership and providers have submitted bids to be admitted to the framework.

Section 2A – People or communities that are targeted or could be affected (taking particular note of the Protected Characteristic listed in action table)

Independent fostering agencies provide foster carers for looked after children so the service is targeted at young people aged 0-17 in Somerset or are either already in, or entering, local authority care. Foster carers care for children with a wide variety of needs from a range of cultural backgrounds.

All placements made will include an assessment of the needs of the child, the views of the child and parents if appropriate, and the outcomes that are required by the foster carers. These are then matched to available foster carers to find the most appropriate placement for the child; stability of the placement for the child is a key factor that SCC monitors closely and is judged on.

Section 2B – People who are delivering the policy or service

Independent fostering agencies.

Section 3 – Evidence and data used for the assessment (Attach documents where appropriate)

The Service Specification for the framework tender makes clear that all bidders are expected to comply with Equality Legislation. If they fail to demonstrate this they are excluded from the Procurement Process at the assessment stage.

Section 4 – Conclusions drawn about the equalities impact (positive or negative) of the proposed change or new service/policy (Please use **prompt sheet** in the guidance for help with what to consider):

Many children placed will have a Special Educational Need (SEN) or disability. These needs are recorded and explored, and placements are identified in order to meet these needs. This will not change in the new framework and no adverse effects are expected.

Any needs related to faith, religion, belief, culture or heritage are recorded and explored by the social worker, and these are represented when searching for a foster carer on the framework. The framework's ability to respond to this is not expected to change and no adverse effects are expected.

Any needs related to gender or sexuality, including gender reassignment and transgender needs, are recorded and explored by the social worker, and these are represented when searching for a foster carer on the framework. The framework's ability to respond to this is not expected to change and no adverse effects are expected.

The ITT requires providers to comply with equality legislation as pass/fail criteria, which includes four questions such as asking whether the organisation has had a complaint upheld following an investigation by the quality and human rights commission.

Payment to foster care agencies on the framework is only made on the basis of placements made. It is the responsibility of the council to ensure placements are made which appropriately meet the needs of the child or young person. Therefore it is in provider's interests to ensure they have carers available to match the needs of the child.

If you have identified any negative impacts you will need to consider how these can be mitigated to either reduce or remove them. In the table below let us know what mitigation you will take. (Please add rows where needed)			
Identified issue drawn from your conclusions	Actions needed – can you mitigate the impacts? If you can how will you mitigate the impacts?	Who is responsible for the actions? When will the action be completed?	How will it be monitored? What is the expected outcome from the action?
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Disability			
Gender Reassignment			
Marriage and Civil Partnership			
Pregnancy and Maternity			
Race (including ethnicity or national origin, colour, nationality and Gypsies and Travellers)			
Religion and Belief			
Sex			
Sexual Orientation			
Other (including caring responsibilities, rurality, low income, Military Status etc)			

Section 6 - How will the assessment, consultation and outcomes be published and communicated? E.g. reflected in final strategy, published. What steps are in place to review the Impact Assessment	
The assessment will be published alongside Cabinet papers. A review will take place when the framework contract comes to an end in 2022. Ongoing dialogue with independent fostering agencies over the life of the framework contract allows continuous scrutiny of processes.	
Completed by:	Louise Palmer
Date	6 th December 2017
Signed off by:	Philippa Granthier
Date	02/01/18
Compliance sign off Date	03/01/18
To be reviewed by: (officer name)	Louise Palmer
Review date:	2022

NOT PUBLISHED ON THE COUNCIL'S WEBSITE

NON-KEY DECISION TAKEN BY THE DIRECTOR OF CHILDREN'S SERVICES

Decision title: Peninsula Fostering Framework Tender

Officer making decision: Julian Wooster, Director of Children's Services

Author Contact Details: Louise Palmer, Strategic Commissioner, Tel. 07818 529158

Date of Decision: 14th Sept 2017

Details of the decision:

That the Director of Children's Services authorises Somerset to take part in the South West Peninsula framework tender for independent fostering placements, to be issued in October 2017. The framework would commence on 1st April 2018 for a period of 48 months.

Reasons for the decision:

Since 2006 the council has collaborated with the Peninsula to purchase fostering placements from the independent sector. The current framework has been extended by the Peninsula for 12 months and expires on 31st March 2018.

Without a framework in place, future purchases after 31st March 2018 are likely to be made as spot purchases with individual contracts. This is a risk at the point of purchase, when we will rely on our placements team to negotiate a good price.

The proposed framework will increase the supply of high quality, locally available placements in a family setting. In order to achieve positive outcomes for vulnerable children and young people, there is a focus on supporting placement stability and permanence for children and young people. The framework agreement will also aim to achieve improved value for money for placing authorities through greater transparency of pricing and competition through call-off.

Background to the decision:

The Peninsula Commissioning and Procurement Partnership (PCPP) is a longstanding collaboration between Cornwall Council, Devon County Council, Plymouth City Council, Torbay Council and Somerset County Council. Devon County Council (DCC) is leading the joint procurement for Peninsula Fostering in Independent Fostering Agency Placements.

The aim of the tender is to award 'Lots' for different levels of foster care, each for a duration of four years. (1st April 2018- 31st March 2022). Each Framework is split into three Geographical areas. Bidders can bid for any one or all Lots. The aim of the Procurement process is to create approved ranking lists for each Lot and geographical area.

The timetable for the framework tender is as follows:

Date	Stage
25/09/17	Dispatch of the OJEU Contract Notice by DCC. Procurement Documents made available over the internet.
12:00 on 26/10/2017	Deadline for return of Bids (to include the SQ and ITT responses)
26/10/2017-05/02/2018	Evaluation of Bids and recommendation for the successful Bidders.
03/11/2017-05/02/18	Completion of PCPP approval and award decision processes.
05/02/2018	Notification by DCC of the award decision, debriefing unsuccessful Bidders and commencement of the standstill period.
16/02/2018	Expiry of standstill period.
16/02/2018	Appointment of the successful Bidders, award of the Contract
19/02/18 – 31/03/18	Transfer of current IPAs
01/04/2018	Service delivery commences

Members consulted; members informed :	Not considered necessary
Officer consultations completed:	Yes
Senior (including statutory) officer sign off completed	Yes
Public / other consultations undertaken	Not considered necessary
Financial, Legal, HR, Risk, Due regard implications considered	Yes

Background papers:

Somerset Sufficiency Statement for Children Looked After and Care Leavers 2016-2019

<http://www.somerset.gov.uk/childrens-services/care-and-chaperoning/children-in-care/>

The below has been completed:	Name(s)	Date
Relevant local County Councillors consulted where decision directly affects their Division	N/A	
Relevant Cabinet Member(s) consulted (if applicable)	N/A	
Opposition Spokesperson informed (if applicable)	N/A	
Chairman of relevant Scrutiny informed (if applicable).	N/A	

Decision Maker

I am aware of the details of this decision, have considered the reasons, options, representations and consultation responses (where applicable) and give my approval / agreement to its implementation.

Signed:



Name: Julian Wooster

Post: Director of Children's Services

Date: 16th September 2017.

Equality Impact Assessment Form and Action Table 2015
 (Expand the boxes as appropriate, please see guidance
 (www.somerset.gov.uk/impactassessment) to assist with completion)

"I shall try to explain what "due regard" means and how the courts interpret it. The courts have made it clear that having due regard is **more than having a cursory glance** at a document before arriving at a preconceived conclusion. Due regard requires public authorities, in formulating a policy, to give equality considerations the weight which is **proportionate in the circumstances**, given the potential impact of the policy on equality. It is not a question of box-ticking; it requires the equality impact to be **considered rigorously and with an open mind.**"

Baroness Thornton, March 2010

What are you completing the Impact Assessment on (which policy, service, MTFP reference, cluster etc)?

Peninsula Fostering Framework Tender

Version

1

Date

7th Sept 2017

Section 1 – Description of what is being impact assessed

The council is taking a decision to take part in the South West Peninsula framework tender for independent fostering placements. The assessment is on the ITT which describes the service being purchased, and the questions assessing bidder's suitability to provide the service

Section 2A – People or communities that are targeted or could be affected (taking particular note of the Protected Characteristic listed in action table)

The tender exercise is for a framework for independent fostering providers. People who are affected by this are children in the care of Somerset County Council.

Section 2B – People who are delivering the policy or service

The tender exercise is being led by Devon County Council on behalf of the peninsula authorities. The service will be delivered by a range of fostering providers selected through the tendering process.

Section 3 – Evidence and data used for the assessment (Attach documents where appropriate)

Those placed in Peninsula placements are broadly aged 10-17, with the majority of young people aged 13-16, although placements are also offered for those aged under 10 years of age. This is currently appropriate, and will continue into the next fostering framework with no change and no adverse effects are expected.

Section 4 – Conclusions drawn about the equalities impact (positive or negative) of the proposed change or new service/policy (Please use **prompt sheet in the guidance for help with what to consider):**

Many children placed will have a Special Educational Need (SEN) or disability. These needs are recorded and explored, and placements are identified in order to meet these needs. This will not change in the new framework and no adverse effects are expected.

Any needs related to faith, religion, belief, culture or heritage are recorded and explored by the social worker, and these are represented when searching for a foster carer on the

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Sexual Orientation			
Other (including caring responsibilities, rurality, low income, Military Status etc)			

Section 6 - How will the assessment, consultation and outcomes be published and communicated? E.g. reflected in final strategy, published. What steps are in place to review the Impact Assessment	
Completed by:	Louise Palmer
Date	7 th Sept 2017
Signed off by:	Tom Rutland
Date	15 th Sept 2017
Compliance sign off Date	15 th Sept 2017
To be reviewed by: (officer name)	
Review date:	

Decision Report – Cabinet decision
– 17 January 2018

Confirmation of National Funding Formula for Schools and High Needs

Cabinet Member(s): Cllr Frances Nicholson - Cabinet Member for Children and Families and Cllr David Hall - Cabinet Member for Resources and Economic Development

Division and Local Member(s): All

Lead Officer: Martin Young, Finance Strategic Manager – Adults, Childrens and Public Health

Author: Martin Young, Finance Strategic Manager – Adults, Childrens and Public Health

Contact Details: (01823) 359057

	Seen by:	Name	Date
	County Solicitor	Honor Clarke	03/01/18
	Monitoring Officer	Julian Gale	03/01/18
	Corporate Finance	Kevin Nacey	03/01/18
	Human Resources	Chris Squire	03/01/18
	Property / Procurement / ICT	N/A	N/A
	Senior Manager	Julian Wooster	03/01/18
	Local Member(s)	All	
	Cabinet Member	Cllr Frances Nicholson	20/12/18
	Opposition Spokesperson	Cllr Jane Lock	20/12/18
	Relevant Scrutiny Chairman	Cllr Leigh Redman	20/12/18
Forward Plan Reference:	FP/17/11/07		
Summary:	This paper provides confirmation of overall Dedicated Schools Grant funding for Somerset following final publication by the DfE, including the delegated schools budget and the High Needs provision for 2018/19, following the approach recommended by Schools Forum on 21 November 2017 and approved at Cabinet on 13 December 2017 (see background papers below).		
Recommendations:	<p>It is recommended that Cabinet:</p> <ol style="list-style-type: none"> Approve the allocation of Dedicated Schools Grant (DSG) for delegation to Somerset Schools and High Needs provision, (including Academies and Free schools) 		

	<p>2. Devolve approval of the final formula allocations at individual school level for 2018/19 (received 19 December 2017) to the Cabinet Member for Children and Families and the Cabinet Member for Resources and Economic Development.</p>
<p>Reasons for Recommendations:</p>	<p>This decision will allow for the setting of the budget shares for Schools and Academies for the year and the overall amounts available for Early Years, High Needs and Central Services Schools Budget (CSSB).</p>
<p>Links to Priorities and Impact on Service Plans:</p>	<p>County Plan:</p> <ul style="list-style-type: none"> • Improving education – We will aim to have better school results for all children across all key stages and in particular at GCSE and A-Level with a particular focus on disadvantaged children. • Opportunities for young people – We will campaign for fairer funding for our schools to increase numbers of children and young people in education, employment or training.
<p>Consultations and co-production undertaken:</p>	<p>The Somerset Schools Forum and its Technical Working group met in September to discuss the implications outlined in the National Funding Formula policy documents, and agreed to consult with Somerset maintained schools and academies on proposed local changes to schools funding formula.</p> <p>A consultation briefing and questionnaire was published and in support of the consultation, four evening roadshows were held across the county to help inform the process. The consultation ran from 31 October to 17 November 2017.</p> <p>Following this consultation, a paper was presented to and approved by Cabinet on 13 December 2017 which recommended the approach to be adopted for allocation of DSG funding for 2018/19 (recommended by Schools Forum on 21 November 2017).</p> <p>The Opposition Spokesperson and Chairman of Scrutiny Committee for Policies for Children & Families have been made aware of the proposals within this report.</p>
<p>Financial Implications:</p>	<p>All funding referred to in this paper is delivered through the Department for Education's (DfE's) Dedicated Schools Grant (DSG) and as such is ring-fenced to educational provision. It does not therefore form part of the local authority's net budget.</p> <p>Final allocations were published by the DfE on 19 December 2017 and we can now confirm that Somerset will have available £366.050m for 2018/19, which includes an increase of</p>

	<p>£10.224m, 3.75% over the 2017/18 revised baseline, as a result of demographic change (442 more pupils) and the fairer funding implementation.</p> <p>The allocation now includes a confirmed transfer of up to £1.414m from the Schools Block to High Needs (see December Cabinet paper) which will partly offset an inherent shortfall in High Needs funding, a national issue.</p>						
Legal Implications:	<p>The School and Early Years Finance (England) Regulations 2017 require the Authority to consult with the Schools' Forum on the proposed formula.</p> <p>Schools Forum will decide upon DSG central budgets for Early Years, Central Schools Services, including Education Services Grant on 17th January as per their responsibilities laid down in the Schools and Early Years finance regulations 2017</p> <p>School budget shares must be submitted to the ESFA on the appropriate return by the 19th January 2018 and published for individual schools by 28 February 2018.</p>						
HR Implications:	<p>There are no direct HR implications arising from the proposed changes to Somerset's funding formula, although some schools may be required to invoke redundancy procedures as a result of reducing pupil numbers and/or increasing costs compared with the level of funding.</p>						
Risk Implications:	<p>The key risk is in significant budget variances. The formula does however provide for an increase of at least 0.5% per pupil across all schools.</p> <p>There are continuing cost pressures within all sectors, in particular across the High Needs sector. The transfer from the Schools Budget allocation to High Needs of £1.414m recognises these pressures.</p> <table border="1"> <tr> <td>Likelihood</td> <td>2</td> <td>Impact</td> <td>3</td> <td>Risk Score</td> <td>6</td> </tr> </table>	Likelihood	2	Impact	3	Risk Score	6
Likelihood	2	Impact	3	Risk Score	6		
Other Implications (including due regard implications):	<p>Equalities Implications There are no direct impacts as changes in the schools budget allow for a minimum increase of 0.5% per pupil. The transfer of £1.414m to the High Needs budget reduces the financial burden placed reserves.</p> <p>Community Safety Implications None as changes to funding do not relate to community safety.</p> <p>Sustainability Implications None as changes to funding do not impact on sustainability.</p> <p>Health and Safety Implications None as changes to funding do not impact on Health and Safety</p>						

	<p>Privacy Implications None</p> <p>Health and Wellbeing Implications None</p>
<p>Scrutiny comments / recommendation (if any):</p>	<p>The Opposition Spokesperson and Chairman of Scrutiny Committee for Policies for Children & Families have been made aware of the proposals within this report.</p>

1. Background

- 1.1. The DfE are adopting a National Funding Formula (NFF) to distribute funds to local authorities for both Schools and High Needs Budgets, providing a notional allocation for each mainstream school (maintained, academy and free school) within the authority for the next two years, however the authority are not obliged to adopt the NFF factors and values. This is therefore known as a 'soft' National Funding Formula and local arrangements could continue. Overall during the next two years an additional £1.3 billion is being invested nationally
- 1.2. The formula for distributing money to authorities includes minimum funding levels and capping arrangements. The DfE have built in a guarantee that the formula will provide as a minimum a 0.5% per pupil cash increase in 2018/19 however they have also included a gains cap of 3% per pupil. Somerset should continue to lobby for removal of the cap given it is historically a low funded authority and a disparity will still remain, given that traditionally high funded authorities will still have a guaranteed increase.
- 1.3. Cabinet agreed on 13 December 2017 to adopt the new distribution method and to make use of the flexibility provided by the DfE to transfer 0.5% (£1.414m) from the Schools Budget into High Needs recognising the financial pressure faced by the service.
- 1.4. **Schools Allocation**
The funding for 2018/19 is now confirmed as £282.867m, an increase on the 2017/18 revised baseline for Somerset schools of £10.224m or 3.75%. After deducting £1.414m to transfer to the High Needs block the increase for Schools in 2018/19 will be £8.809 or 3.23% over 2017/18 revised baseline,
- 1.5. **High Needs Budget**
Whilst consulting on funding changes for schools for 2018/19 we asked whether we should use the opportunity to transfer some money from the Schools Budget to High Needs. In recognition of the pressures on High Needs nationally, the DfE have allowed LA's, with support from their Schools Forums, the ability to move up to 0.5% (equivalent to £1.414m) out of the Schools Budget. Above 0.5% requires Secretary of State approval and would also need to be accompanied by Forum support and a SEND financial strategy. This was recommended by Schools Forum and approved by Cabinet on 13 December (see background papers below)

2. Options considered and reasons for rejecting them

- 2.1.** As detailed in para 1.4 above the DfE have confirmed that authorities are not obliged to adopt the NFF factors and values and as such it is a 'soft' National Funding Formula.
- 2.2.** As outlined in the Cabinet report of 13 December, the local authority could have chosen to ignore the new proposals however in doing so there would have been two consequences in particular:
 - Using an established or new local formula would create a significant administrative burden and potential confusion given that the latest national funding levels are based on a new national basis for distribution.
 - If Somerset were to adapt its current local funding formula to allocate the additional funds it could move further away from a national approach and as such could drive schools to make decisions (redundancy/employment etc) that in two years' time may be contrary to an expected hard (compulsory) national funding formula from the DfE, leading to unnecessary upheaval in the short term.

The implementation of the NFF from 2018/19 in Somerset is likely to lead to a smoother financial transition when a hard national funding formula is applied by the DfE.

3. Background Papers

- 3** Report to Cabinet 13 December 2017 - Implementation of the National Funding Formula for Schools and High Needs, see link below:

<http://democracy.somerset.gov.uk/documents/s5514/Schools%20National%20Funding%20Formula%20-%20Decision%20Report.pdf>

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