



Derby City Council

COUNCIL CABINET 12 September 2018

ITEM 9

Report of the Strategic Director for People
Services

Social Impact Bond for Children in Care and on the Edge of Care

SUMMARY

- 1.1 The Local Authority is working in partnership with Nottingham City and Nottinghamshire County Councils on an initiative to develop and establish the use of Social Impact Bonds to commission evidence-based services that support children on the edge of care and in care.
- 1.2 Quality and type of care provision has a significant impact on a child/young person's life, and care provision is an area of high cost for the Local Authority, with growing complexity of need and national shortages of provision.
- 1.3 Initial approval was given at Council Cabinet in February 2018 (as outlined in paragraph 4.9) to proceed with a joint procurement for a provider to deliver an appropriate range of specialist and evidence-informed interventions to support young people with challenging behaviours and complex needs.
- 1.4 The identified funding model for this is via a Social Impact Bond (SIB). These are a form of social investment, increasingly used to fund service improvements, involving Local Authorities, investors and providers. Payments are made based on outcomes being met, rather than traditional methods of service funding. They also bring additional investment in interventions which would not normally be affordable in a local area.
- 1.5 The SIB is part of our strategy to find placement interventions which improve outcomes and that are better value for money, in line with the Council's Medium Term Financial Plan (MTFP).
- 1.6 Whilst it is recognised there are benefits with the SIB model (as outlined in section 3 and paragraph 4.8), as this is a relatively new and innovative approach to funding service delivery, a further report was agreed to be provided to Cabinet prior to appointment of the successful bidder, when a clearer understanding of the implications for Derby were known.
- 1.7 Following a successful joint procurement process across three Local Authorities, this report requests approval to enter into final negotiations with the preferred bidder, and award the SIB contract to support children in care and on the edge of care.
- 1.8 Some information relating to this report is not for publication by virtue of Paragraph 3 of Schedule 12A of the Local Government Act 1972 as it would reveal the names of organisations with whom the Council is engaged in major contract negotiations, and

information relating to the Local Authorities mitigation of financial risk. The exempt information is set out in the supplementary exempt report - *Social Impact Bond for Children in Care and on the Edge of Care*.

RECOMMENDATION

- 2.1 To approve completion of the procurement of a Social Impact Bond provider, with Nottingham City and Nottinghamshire County Councils, for the services for children outlined in paragraph 4.4.
- 2.2 To delegate authority to the Strategic Director for People Services, following consultation with the Strategic Director of Resources and Cabinet Member for Children and Young People, to approve the Council entering into such contractual arrangements as are necessary to give effect to the award as stated above in 2.1.
- 2.3 To note the contractual arrangements as per paragraph 2.2 will be subject to final confirmation of contributory funding from the Life Chances Fund.
- 2.4 To take into account the detail within this report in consideration of the separate recommendation to appoint a preferred bidder detailed within the supplementary exempt report.

REASONS FOR RECOMMENDATION

- 3.1 The initiative supports improved outcomes for children on the edge of care, or in care, which are some of our most vulnerable and challenging young people.
- 3.2 This joint commissioning approach has enabled access to evidence-based interventions which Derby would be unable to afford as a sole commissioner, and shares the risk across three Local Authorities.
- 3.3 The initiative uses outcome-based commissioning which incentivises better value for money by focussing on positive outcomes, rather than purely service delivery, and enables providers to think creatively about how to meet the needs of young people.
- 3.4 Best value and reducing costs for children in care is a priority for the Local Authority, with external care costs for children exceeding a forecasted spend of £18m per annum. Where there is good engagement from key staff, this type of approach has been shown to improve outcomes for children and young people.
- 3.5 Local Authority costs should be reduced by:
 - payments only being made when outcomes are met, which are focussed on care which is at a lower cost but continues to provide a positive outcome;
 - a reduction in the numbers of young people needing high cost services;
 - a contribution of 25% of the outcome payment being secured from the Life Chances Fund.

SUPPORTING INFORMATION

- 4.1 Derby City Council has been working in partnership with Nottingham City and Nottinghamshire County Councils on an initiative to develop and establish the use of Social Impact Bonds, which are a form of social investment.
- 4.2 The services being commissioned are evidence-based services that support children and young people on the edge of care and in care. The desired outcome is to achieve better social outcomes through achieving stable family-type placements and, where possible, to remain at home with their families
- 4.3 The three Local Authorities are currently seeking a provider to deliver an appropriate range of specialist and evidence-informed interventions to support young people with challenging behaviours and complex needs.
- 4.4 The interventions will be holistic, wrap-around tailored packages of flexible support for foster carers and the young person, and/or therapeutic, holistic interventions which focus on building stronger family relationships. They may be either licensed interventions, or those developed by organisations themselves which have a demonstrable track record of sustained success.
- 4.5 The interventions would support young people who:
 - a) currently live in residential care, supporting them to step down to foster care;
 - b) are currently living in foster care and at a high risk of placement breakdown or at risk of entering residential care, supporting them to remain in stable foster care;
 - c) are currently 'looked after' by the Local Authority but whom the Local Authority is seeking to re-unify with their birth family or primary carers; or
 - d) are currently defined as being on the 'edge of care' (i.e. at risk of being taken into care), and supported to remain safely with their families/primary carers.
- 4.6 The project aims to help up to approximately 100 Derby City children and young people over four year period during which individual cases may be referred to receive interventions and support (out of a total of up to 400 children and young people across the three Councils). Outcomes for the young people are tracked for a further two years.
- 4.7 The identified funding model is via a Social Impact Bond (SIB). These are a form of social investment and can be used to fund service improvements. Investors fund the costs to deliver an improvement to a service, and the Local Authority makes payments on delivery of a successful outcome, rather than payment on service delivery. They have been used to fund social initiatives in Essex, Manchester and Birmingham.

- 4.8 The advantages of funding these services through a joint SIB model are:
- An outcome-based approach incentivises investors and their partners to deliver better outcomes for children and young people, giving them freedom to adapt their services using evidence-based approaches;
 - The joint approach enables access to evidence-based interventions which Derby would be unable to afford as a sole commissioner and shares risk across the Local Authorities;
 - A contribution to 25% of the outcome payments has been approved by the Life Chances Fund for the partnership, subject to the successful conclusion of the current phase of the project.
- 4.9 Approval was given at Council Cabinet on 14th February 2018 to:
- Proceed with the development of a final social investment proposal to the Life Chances Fund;
 - Enter into a tri-partite agreement with Nottingham City Council and Nottinghamshire County Council to govern the inter-authority arrangements;
 - Be party to a joint procurement process.
- 4.10 Agreement was given for a further report to be presented to Cabinet prior to final establishment of a social impact bond, when the risks and benefits had become clearer.
- 4.11 The project has progressed well during the past six months and remains on track to appoint a successful delivery partner within the identified timescales. Bidders were invited to submit final bids on 3 August 2018. Bids were considered by a range of social care, finance, legal and procurement colleagues from each of the three Local Authorities, who collectively assessed the quality of the bids. This included the appropriateness of the proposed interventions, the extent to which they will complement existing services and cost-effectively deliver the anticipated outcomes for the children and young people.
- 4.12 The procurement process has now reached conclusion and a preferred bidder has been identified (the details of the preferred bid are contained within the supplementary confidential report). The three Local Authorities intend to award the contract to the preferred bidder during September, in line with the timelines required by the Life Chances Fund subject to:
- (i) receipt of final approval to award from each Local Authority; and
 - (ii) receipt of confirmation of contributory funding from the Life Chances Fund.
- 4.14 A final detailed joint submission will be submitted to the Life Chances Fund by the Local Authorities for final confirmation of contributory funding during September subject to confirmation by all three Council Cabinets. Confirmation is expected to be received by November 2018.

- 4.15 Services are expected to deliver for four years, and provided the identified outcomes have been met and are sustained, outcome payments will be made for a further two years.
- 4.16 A tri-partite agreement, setting out responsibilities and obligations between the three Local Authorities is being established.

OTHER OPTIONS CONSIDERED

- 5.1 Remove Derby from the joint initiative. This is not recommended as the opportunity for specialist and evidence-informed interventions to support young people with challenging behaviours and complex needs would be significantly reduced and positive outcomes would not be achieved. This would also impact on the other partnership Local Authorities.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Emily Feenan, Principal Lawyer Alison Parkin, Head of Finance, People Services n/a n/a Gurmail Nizzer, Acting Service Director, Integrated Commissioning (Children and Young People), People Services Laura Rose, Category Manager, Peoples Services Judith Russ, Head of Childrens Safeguarding Cath Young, Commissioning Manager, Children In Care
For more information contact: Background papers: List of appendices:	Lisa Melrose, Head of Integrated Commissioning for Children and Young People, People Services, 01332 642569 lisa.melrose@derby.gov.uk Council Cabinet Report 14 February 2018 - <i>Social Impact Bond for Children in Care and on the Edge of Care</i> Appendix 1 – Implications

IMPLICATIONS

Financial and Value for Money

- 1.1 With a SIB model, social investors provide upfront investment which funds the service delivery, on which they would expect to make a return.
- 1.2 The City Council current forecasted spend is exceeding £17m per annum on placement costs for looked after children. The SIB model provides support and interventions to children to either prevent them from coming into local authority care, to stabilise their current placements from escalating into high cost complex placements or to support children currently in residential care to step down to foster care. These interventions will help improve outcomes for children and will also lead to cost savings of circa £4 million over the life of the contract of which £1 million is from reduction in placement costs and £3 million cost avoidance.
- 1.3 The outcome payments made by the Local Authority would be made where the interventions are successful. There is an in principle offer of £3 million which will be split between the 3 Local Authorities through the Life Chances Fund as a 25% contribution towards the required outcome payments. This figure will be confirmed in October 2018.
- 1.4 It is recognised that this approach is untested across the three Local Authorities; therefore a cautious approach to any potential savings is recommended at this time. The scheme would run for four years and outcome payments are typically paid for up to two years if success is sustained, therefore the scheme would run for approximately six years.
- 1.5 Nottinghamshire County Council is the lead Local Authority for the Life Chances Bid submission. The tri-partite agreement will set out the process for claiming and redistribution of contributory funding.
- 1.6 Whilst the three Local Authorities will continue to work together post-contract award to minimise management and administration costs, there will be ongoing contract management, outcomes tracking, maintenance and recording which will require c£40k investment pa. This may be increased at the outset of the implementation phase.

Legal

- 2.1 A procurement process for the appointment of a Contractor and Sponsor to deliver the services has been undertaken jointly with Nottingham City Council and Nottinghamshire County Council (lead).

- 2.2 The three Local Authorities have jointly appointed external solicitors to provide specialist legal advice in relation to the procurement process and the SIB model. The external solicitors have also provided support to the Authorities during the dialogue process.

PROVIDER AGREEMENT

- 2.3 A Provider Agreement will be entered into between the three Local Authorities and (1) the Contractor and (2) the Sponsor. The Contractor is responsible for delivering the interventions necessary to deliver the outcomes (the interventions may be delivered by sub-contractors). The Sponsor finances the delivery of the interventions by the Contractor. The Sponsor and the Contractor enter into a Sponsor Agreement to govern their relationship.
- 2.4 The Contractor is required to meet the specified “Satisfactory Level of Outcomes” i.e. a minimum level of outcomes as a proportion of the volume of referrals made. Failure to achieve the Satisfactory Level of Outcomes is a Contractor Default for which the Local Authorities may terminate the Provider Agreement.

Monitoring and Reporting structures

- 2.5 A governance structure comprising DN2 Strategic Board and Operational Board will be established, attended by Local Authorities, Contractor and Sponsor to ensure progress and overcome challenges.

Payment Arrangements

- 2.6 Successful delivery of the outcomes in relation to a child/young person will trigger the payment of an outcome payment from the Local Authorities to the [Sponsor].
- 2.7 The Local Authorities will have a contractual commitment to refer a minimum number of children/young people to the Contractor; minimum numbers of referrals have been agreed for each Authority for each cohort. In the event that an Authority fails to achieve its minimum referral level in a specific cohort (and neither of the other Authorities is able to fill that referral) the Authority will be liable to pay a minimum referral volume payment to the Sponsor (for financial details and risk mitigation see supplementary confidential report).
- 2.8 In the event that a child/young person is referred to the Contractor and the interventions are to be provided outside of the Local Authorities’ geographical areas an additional out of geography payment will be payable to the [Contractor].

Termination Provisions

2.9 Contractor Default:

The Local Authorities may terminate the Provider Agreement where a Contractor Default occurs. Contractor Default includes a failure to meet the Satisfactory Level of Outcomes, Service Failure (material breach) and occurrence of a significant and material safeguarding incident.

The Provider Agreement provides, where possible, for the rectification of Contractor Defaults by the Contractor. Contractor Default or failure to rectify the Contractor Default where possible will result in termination of the Provider Agreement. There is no contractual right to compensation for the Local Authorities on Contractor Default (on the basis that the Authorities are only required to make a payment under the Provider Agreement where there is a successful outcome), however, this does not preclude the right of the Local Authorities to bring a claim for damages through the Courts.

The Provider Agreement does recognise that a failure to meet the Satisfactory Level of Outcomes may only affect one Authority or one cohort relevant to that Authority and provides that in such circumstances the affected Authority can require the Contractor to produce a Partial Termination Report, detailing how, if viable, the Provider Agreement could be terminated only in respect of that Authority or a specific cohort. If Partial Termination does not occur, the Provider Agreement does provide that the Authority/ties affected by the failure would have the right to no longer make referrals in respect of the cohort affected and not be liable for any minimum referral volume payment in respect of that cohort.

2.10 Authority Default:

The Contractor may terminate the Provider Agreement where an Authority Default occurs. An Authority Default would occur if there was a failure to make payment by the Authorities or a material breach of obligations by the Authorities which prevents the Contractor from performing its obligations. The Authorities do have the right to rectify their breaches where possible.

Termination for Authority Default would result in the payment by the Authorities of the Authority Default Termination Sum to the Contractor.

INTER AUTHORITY AGREEMENT

- 2.11 The three Local Authorities will enter into the Inter Authority Agreement to govern the relationship between them in respect of the SIB Project.

Governance Arrangements

- 2.12 In addition to the DN2 Strategic Board and the Operational Board, the three Local Authorities will meet quarterly at the Partnership Board; the Partnership Board will not be attended by the Contractor.

- 2.13 All decisions relating to the management and operation of the SIB Project and the Contractor shall be taken at the Partnership Board. Each Local Authority shall have one vote, decisions shall be taken on a show of hands and motions will only be passed in the event of an unanimous vote in favour.
- 2.14 Each Authority shall appoint an Individual Authority Contact (IAC); each IAC will hold regular local meetings with the Contractor, but will not have authority to make any changes etc. to the operation of the SIB Project.
- 2.15 The Local Authorities shall jointly appoint a single Authorised Representative, who will be responsible for communication of all key decisions etc. to the Contractor.

Drawdown of LCF

- 2.16 The IAA contains provisions detailing the mechanisms for drawdown of LCF monies and the allocation of those monies to each of the Local Authorities (see further Financial Implications).

Consequences of Termination/Withdrawal

- 2.17 A decision to terminate the Provider Contract must be taken unanimously.
- 2.18 In the event that one Authority wishes to exercise its right to Partially Terminate the Provider Agreement, it must first consult with the other Local Authorities and shall be liable for any sums due to the other Local Authorities and/or the Contractor as a result of such Partial Termination.

Personnel

- 3.1 The lead authority for the Social Impact Bond bid with the Life Chances Fund and the procurement is Nottinghamshire County Council. A Derby City Council project team including colleagues from Finance, Procurement, Social Care, Legal services and Commissioning has been in place.

IT

- 4.1 None noted.

Equalities Impact

- 5.1 The initiative will support some of our most vulnerable young people.

Health and Safety

- 6.1 None noted.

Environmental Sustainability

- 7.1 None noted.

Property and Asset Management

8.1 None noted.

Risk Management and Safeguarding

9.1 An initial risk assessment was undertaken, which has been updated during the procurement process.

9.2 The main requirements to mitigate key risks remain as:

- i. Clearly and correctly defined outcomes;
- ii. Payment levels accurately linked to alternative support costs;
- iii. Referrals from a defined cohort of children and young people;
- iv. A clear understanding and commitment to the SIB model, most particularly from social care staff to ensure that the right referrals are selected, which matches the modelled cohort. If the right number and type of referrals are not selected, the system could cost the Local Authority more as the savings will not accrue.

9.3 A detailed risk assessment is included in the associated exempt Report.

Corporate objectives and priorities for change

10.1 The initiative supports the following corporate priorities:

- protecting vulnerable children and young people and
- delivering our services differently.

10.2 Preventative work aimed at reducing the number of children in care, and reducing the cost of high cost placements, remains key a priority for the Council.