

CABINET PROCUREMENT & INSOURCING COMMITTEE

**COMBINED BUSINESS CASE AND CONTRACT AWARD REPORT
(INSOURCING OR OUTSOURCING DECISION)**

Title of Report	Commissioning Framework - Homes for Looked After children and Care Leavers via London Borough of Newham Dynamic Purchasing System - Business Case
Key Decision No.	CE S211
CPIC Meeting Date	8 January 2024
Classification	Open (with exempt appendices)
Ward(s) Affected	All Wards
Cabinet Member	Deputy Mayor Cllr Anntoinette Bramble
Key Decision	Yes <hr/> Reason Affects two or more wards & Spending/or saving
Group Director	Helen Woodland, Group Director of Adults, Health and Integration on behalf of Jacquie Burke Group Director of Children and Education
Contract Value, <u>both</u> Inclusive of VAT and Exclusive of VAT (for the duration of the contract including extensions)	Circa £15.4m for a 2 year period (dependent on the level of usage)
Contract Duration (including extensions e.g. 2 yrs + 1 yr + 1 yr)	Dynamic Purchasing System - until 8th of March 2026 with the option to extend for up to 4 years until 2030.

1. Cabinet Member's Introduction

- 1.1. This report proposes an exciting opportunity to join with a number of other East London Local Authorities to access a Dynamic Purchasing System (DPS) for the provision of Independent Fostering agencies that is hosted by London Borough of Newham.
- 1.2. The DPS will run until 8th of March 2026 with the option to extend for up to a further 4 years.
- 1.3. Independent Fostering Agencies provide foster carers to local authorities where there is insufficient in house provision, or where the needs of the child are more specialist and require either a home at a distance or with specialist support. For North East London, Independent Fostering Agencies provide approximately 40% of all foster care arrangements and play a critical role in meeting our sufficiency for looked after children.
- 1.4. Foster carers provide support and care for some of our most vulnerable children and young people. We want each child in our care to be provided with the right placement at the right time, and for foster care to be a positive and beneficial choice for children and young people. By working together with other Local Authorities we have an opportunity to deliver significant improvements to the outcomes for children in these arrangements. By improving the quality and availability in North East London we can ensure children are kept closer to home and their communities, and are supported by highly skilled and culturally matched carers. We can work closely with our partner Local Authorities and providers to focus on valuing our young people's heritage, promoting family and sibling contact and community ties and therefore making the transition back home, or supporting young people onto independence in the local community easier.
- 1.5. We want to see more of our looked after children and young people living in family settings in and around Hackney, with carers who have been recruited, trained and retained by us. However, when this is not possible we want to have good relationships and influence the recruitment, training and retention of independent fostering agencies. We would like the diversity of our carers backgrounds and life experiences to be more reflective of the diversity of our care experienced population. We would like to hear that all our carers feel ready and able to meet the complexity of the presenting need, because they feel well supported by our staff, as well as each other. In order to achieve this, we know that we need to prioritise the ongoing development of our fostering recruitment and retention offer internally but also with private agencies to make sure they are actively supporting us to meet our sufficiency.

2. **Group Director's Introduction**

- 2.1. The Council has a legal obligation under the Children Act 1989 to provide suitable accommodation for Looked After Children and fulfil its corporate parenting duty. It is the collective responsibility of the Council, elected members, employees and partner agencies to provide the best possible care and safeguarding for the children who are looked after by the London Borough of Hackney.
- 2.2. The proposal in this report sets out an opportunity to join an existing DPS run by London Borough of Newham for the provision of foster care. Note that the DPS does not commit the Council to any given level of expenditure and there is no guaranteed level of spend with any of the suppliers admitted to the DPS.
- 2.3. This will build on the North East London Residential Commissioning Partnership's existing strategy in which boroughs already share a block contract for residential children's homes. This sub-regional approach will make a significant difference in the way local authorities work with private fostering providers, enable local authority influence and market shaping whilst improving the experiences of children in our care who are living with those foster carers and providers.
- 2.4. In previous years North London boroughs have relied on London Care Placements for a framework of approved providers and fixed costs. However, London Councils ended this service in April 2023 and there is currently no legal procurement framework for commissioning these arrangements nor any guarantee on fixed prices. This has had an exponential impact on all our placements budgets and it is therefore imperative immediate action is taken. By joining this DPS Hackney will be part of a formal procurement framework for commissioning these arrangements that is compliant with procurement regulations.
- 2.5. Working in partnership with other local authorities means that we will be able to share resources, create efficiencies and have greater power in market shaping, which ultimately will support placement stability and cost avoidance.
- 2.6. By developing this work sub-regionally we are able to tailor our approach to meet the needs of our children as we are close in geographical footprint and in terms of needs of our children. We are able to work to influence and shape the independent fostering market and build strong relationships with smaller and local providers who are invested in working with our local authorities to improve services.
- 2.7. The DPS will standardise the enrolment and quality assurance of all the providers being commissioned. It will enable a robust audit trail of spending and will provide a fast route to market for new initiatives, saving time and resources. The access fee detailed in this report is a fraction of the cost should Hackney attempt to commission and run a DPS themselves.. Joining an established DPS, at the same time as other

London authorities are joining, will make the DPS more attractive to providers and in turn provide greater competition amongst providers and help drive up quality of services.

- 2.8. In 2022-2023, £7.1 million was spent on independent fostering agencies all through spot purchasing, the DPS will allow Hackney to commission the majority of these arrangements through a procurement compliant process.
- 2.9. The DPS will support community wealth building by encouraging and supporting local suppliers in Hackney and small and medium sized suppliers to register on the DPS. Local providers will be encouraged and supported to join the DPS.

3. **Recommendations**

Cabinet Procurement & Insourcing Committee is recommended to:

- 3.1. **Agree to join the established Dynamic Purchasing System (DPS) managed by London Borough of Newham for the provision of Independent Fostering Agencies.**
- 3.2. **Agree to redirect the funding allocated to the London Care Services (LCS) Subscription into funding the management fee of the DPS by Newham (currently £6,300 p.a.**

4. **Related Decisions**

- 4.1. There are no related decisions.

5. **Options Appraisal And Business Case (Reasons For Decision)**

- 5.1. The London Borough of Hackney is seeking agreement to join the London Borough of Newham DPS for the provision of Independent Fostering Agencies and Children's Homes. The DPS was approved by Newham's Cabinet in November 2022 and has been live since the 30th of November 2022. The DPS was established by Newham to ensure all care arrangements are procured through a quality assured and procurement compliant process.
- 5.2. This DPS does not commit the council to any given level of expenditure and there is no guaranteed level of spend with any of the suppliers admitted to the DPS.
- 5.3. Note: Applications to join the DPS will be administered by LB Newham. Call-offs from the DPS for individual fostering placements will be approved by relevant officers in line with the scheme of delegation.
- 5.4. London Boroughs of Waltham Forest, Barking and Dagenham, Redbridge, Havering, Tower Hamlets, Greenwich and Milton Keynes City Council

have also indicated their intention to join this DPS as they were all previously subscribing members of London Care Placements.

- 5.5. None of the above Local Authorities (other than Newham) have an existing framework or dynamic purchasing system in place for these contracts and like Hackney rely solely on spot purchasing for all these arrangements.

Background

- 5.6. Up to March 2023, all the above Local Authorities were subscribing members of London Care Services¹ (LCS) which provided access to an approved list of providers with agreed and fixed costs for the duration of Local Authority and Provider Membership. LCS led on approval of providers who had to be Ofsted rated Good or Outstanding and negotiated costs on behalf of all member authorities. As a result, member authorities have had relatively stable costs for care arrangements and a robust process in place that avoided individual annual negotiation on uplifts by individual authorities. The LCS contract however is not a tender process so all care arrangements were made on spot purchase basis. This means that there is limited influence and control over the quality and shape of the market.
- 5.7. On the 1st of April 2023, LCS ceased to operate and although existing contracts remain valid until the child moves on, any new arrangements with these providers are not bound by any formal contractual arrangements nor agreement on prices. This has resulted in the many London authorities being inundated with fee reviews and spot purchase price increases, most of which have been in line with CPI² or above where there have been legacy prices that have not been increased for several years. For the North & East London authorities, this has meant a potential increase of 10% on all existing arrangements which is a significant increase on already existing budgetary pressure. For the London Borough of Hackney this would be an additional £709k per year. See table below.
- 5.8. **Table 1 - Local Authority Spend and Budget on Independent Fostering Agency Care Arrangements 2022/23 with impact of 10% increase**

¹ London Care Services - was a regional collaborative arrangement, working on behalf of 17 Local Authorities (16 London boroughs and one partner authority, Milton Keynes), in order to collectively commission and quality assure Independent Fostering Agencies (IFA) and Residential Children's Homes (RCH). The work of LCS is overseen by the Association of London Directors of Children's Services (ALDCS), hosted by London Councils.

² CPI - Consumer Price Index measures the overall change in consumer prices based on a representative basket of goods and services over time.

Borough	2022/23 Outturn	2022/23 Budget	Worst case scenario 23/24 outturn with 10% uplift on all IFA based
Hackney	£7,099,663	£7,688,000	£7,809,629

- 5.9. Research conducted by the National Association of Fostering Providers (NAFP) has indicated that there is little interest from Independent Agencies joining individual local authority frameworks or contracts due to the national challenges with demand and supply of carers, but also the resources required to tender for these contracts.
- 5.10. Through initial market engagement conducted by our local authorities in partnership with the NAFP the above findings were confirmed however there was significant appetite from IFAs to join regional commissioning approaches as they allow for more co-production between local authorities and independent agencies to improve outcomes for looked after children. This is consistent with previous papers published by NAFP where the messaging has been consistent that “overall providers said that they prefer local authorities to work together to establish and manage framework contracts or dynamic purchasing systems. This creates efficiencies for all parties.”³
- 5.11. North East London authorities had good feedback in terms of relationships with those agencies consulted and agencies confirmed they were more likely to offer those authorities they had better working relationships with, more care arrangements and preferential rates. Unlike a framework agreement, the advantage of the Newham DPS is that new providers can onboard at any time and there is scope to grow the number of providers currently on their DPS.
- 5.12. If we all commissioned individually we would be further fragmenting the market. By joining an existing arrangement with a number of North and East London Authorities we will be able to build stronger partnerships with a smaller group of local providers, support recruitment and retention and develop those agencies and carers to meet the evolving needs of our children and young people. By commissioning in partnership we will be able to align our strategic objectives and ensure that we are meeting our sufficiency duty now and in the future.
- 5.13. Hackney has an existing commissioning relationship with Newham as we were one of the original authorities to jointly commission residential

³ National Association of Fostering Providers, December 2017, *How well are fostering services commissioned? Qualitative survey of views from the independent and voluntary fostering sector in England, Scotland and Wales December 2017, Summary Report*. [Online, available from: <https://www.nafp.org.uk/resources/7-how-well-are-fostering-services-commissioned>]

Children's Homes through a DfE bid in 2018 (the North East London Residential Commissioning Partnership). This contract is still live and is in partnership with a total of 8 London Local Authorities underpinned by a collaboration agreement where London Borough of Havering is the lead. This has been a successful partnership which has resulted in many children being able to stay closer to home and has increased capacity in the residential children's home market locally.

Newham Dynamic Purchasing System (DPS)

- 5.14. The Newham DPS was approved by their cabinet in November 2022. There are 27 agencies already on the DPS.
- 5.15. 89% of the successful Suppliers admitted to the DPS are rated as 'Good' or 'Outstanding' with Ofsted. The remaining are rated as 'Requires improvement' or have yet to be inspected. These agencies will require a risk assessment completed and signed off by a senior manager before they are used. Priority will be given to the good and outstanding homes.
- 5.16. Ofsted ratings will continue to be monitored throughout the life of the DPS to reflect the latest ratings.
- 5.17. The tender process has been successful in attracting a wider supply base. 30% of suppliers were not previously part of the LCS contract.
- 5.18. Through benchmarking that has taken place with Newham and other North and East London authorities, there are approximately 30 common providers between the local authorities. Hackney will encourage all agencies that are providing placements for Hackney children to join the Newham DPS.
- 5.19. By commissioning together we hope to create a collaborative arena where we can deliver innovative solutions and ensure stable, well matched, local homes for our children. As part of this DPS we want to embed a therapeutic and trauma informed parenting approach with the carers and agencies we work with. In addition, pioneer our Anti-Racist Parenting approach to ensure that all our agencies are working in line with our commitments to be Systemic, Trauma Informed and Anti-Racist. We believe this will lead to better outcomes and more stability for our looked after children and support every local authority in meeting its sufficiency duty.

Outcomes and Proposals

- 5.20. We propose that London Borough of Hackney redirects some of the funding that was used to pay for the LCS subscription (£15k pa) to fund the access to the Newham DPS which would be £6300 per year. A cost which is significantly less than the estimated administrative cost of Hackney procuring its own DPS (that would also have a high risk of failing to recruit a sufficient number of providers).

- 5.21. By joining this DPS we will ensure that the London Borough of Hackney delivers its statutory duty and achieves good value and quality when placing children in care.
- 5.22. By commissioning care arrangements through the Newham DPS, this will help reduce the amount of spot purchased services and London Borough of Hackney will be compliant with public contract regulations.
- 5.23. This DPS will support in bringing existing IFA arrangement placements in line through a tendered process with agreed costs for the duration of the DPS.
- 5.24. By working with a small group of local authorities with similar needs and geographical location we are going to be able to influence the local market of fostering providers to improve the quality of service provided to our looked after children and ensure best value.
- 5.25. **Benefits Realisation and Lessons Learnt**
- 5.26. As mentioned in Section 5.5 up to March 2023, London Borough of Hackney was part of London Care Services (LCS) which negotiated rates on behalf of its members. This provided some protection against annual inflation costs for the local authorities, as cost increases have to be agreed by LCS rather than individual Local Authorities. London Borough of Hackney have been paying £15,000 per annum for the subscription fee, which we believe has represented good value for money at the time due to savings and cost avoidance achieved through this subscription. However this was not a procurement regulations compliant tender process.
- 5.27. London Borough of Hackney has not had any procurement framework in place outside of LCS since 2016/17 for the provision of foster care with Independent Fostering Agencies. LCS provided Hackney with the necessary framework required.
- 5.28. In the last five years, there has been a substantial decline in the utilisation of the LCS arrangement in terms of the number of subscribing boroughs and the number of services on the register of providers. This has been in part due to local authorities and other subregional consortia setting up their own frameworks or dynamic purchasing systems. Between 2018/19 to 2022/23 there has been a loss of 52% of London boroughs and 48% of services. Providers feedback that they struggled with the lack of any annual uplifts that was held by LCS as the main reason for dropping off the framework. When providers left the LCS subscription, most local authorities in North London continued to use them but at higher spot purchasing rates when no LCS approved homes could be found. The LCS service model was based on annual borough subscriptions that deliver the required level of funding to maintain the service. As the host organisation, London Councils was responsible for ensuring LCS was run at cost. Following the ongoing decrease in subscriptions, the service had been running at a loss, utilising reserves for the past three years, and was no longer financially sustainable. In view of the financial position of LCS,

London Councils Leaders' Committee agreed that LCS will be wound down and would cease to operate from 1 April 2023.

5.29. The abrupt closure of operations of LCS did not give local authorities enough time to commission something to start by the time the contract ended. All current independent fostering arrangements are now spot purchased with very few providers honouring the terms and conditions and costs set out by the old framework.

5.30. London Borough of Hackney heavily relied on LCS to supplement its demand for foster carers as demand exceeds the in house supply of carers independent fostering agencies are an important part of the care market.

5.31. Insourcing / Outsourcing

5.32. Hackney already insources as much of its fostering provision as possible and is committed to continuing to do so. This service is currently provided through a hybrid model, through in house fostering services, and supplemented by independent and voluntary fostering agencies. This model is used by all London authorities, because the demand for foster care arrangements outstrips the supply of in house carers. In addition, sometimes more specialist carers are needed depending on the children's needs, or carers outside of Hackney and this is where the private sector plays an important role.

5.33. Table 2: Hackney data showing in house fostering households, recruitment and usage compared to IFA

5.34.

No. Looked after Children in 2022	% of children in foster care	% of which were in IFA's	No. of in house in fostering households	Hackney recruitment target per year	How many recruited in 2022
405	70%	43%	108	17	14

5.35. The above table shows that in 2022, Hackney had 406 looked after children. 70% of those children were living in foster care arrangements (approx. 280 children), 43% of those 280 children were living with foster carers from independent fostering agencies, with the rest living with in house and connected carers. The above breakdowns are similar to our statistical neighbours. Even with our ambitious recruitment targets (See Exempt Appendix 4 - Fostering Recruitment and Retention Strategy 2022/23 for more information) the provision of this service will also need to be provided by a mixed economy of in house carers and private/ voluntary fostering agencies. As our looked after children numbers have been increasing year on year, there continues to be insufficient supply of in house carers to meet the growing demand for this service.

- 5.36. The DPS proposed in this paper will provide a list of quality assured providers, with agreed fees and standardised terms and conditions through a procurement compliant process. This will support Hackney in reducing the number of spot purchasing arrangements it does for this service and give us control over ad hoc and annual inflationary uplifts.
- 5.37. What was lacking in the LCS contract was any collaboration and relationship building with providers and other local authorities and joint work to address local sufficiency. There was a lack of centralised contract management and quality assurance which through this DPS will be led on by Newham but jointly carried out by partner authorities.
- 5.38. **Strategic Context**
- 5.39. This report supports the Council to meet the requirements of Section 22G of The Children Act 1989 which requires councils to provide, as far as is reasonably practicable, accommodation for children looked after in their local area which meets the needs of those children. The Council has a statutory obligation to provide accommodation and support for looked after children and care leavers.
- 5.40. This report supports the delivery of all the priorities set out in the *Hackney Corporate Parenting and Children's Social Care Sufficiency Strategy 2023-25* - promotion of a fostering first approach, improved quality assurance and regional collaboration.
- 5.41. This report supports the delivery of the *Strategic Plan - Working together for a better Hackney 2022 to 2026* in particular the Mayor's Priorities of Working together for every child in Hackney.
- 5.42. This report also supports the Mayor's priorities and wider Council objectives to ensure that Hackney Council remains financially stable and well run, providing high-quality public services for all, with the resources to invest for the future, committed to leading on anti-racism, tackling inequality, reducing poverty and ensuring there is no place for hate in Hackney.
- 5.43. In response to the challenging national context and shortage of homes for looked after children, the London Innovation and Improvement Alliance (LIIA), working together with the Association of London Directors of Children's Services (ALDCS), has scoped the potential for a regional approach to commissioning, through the Pan-London Placements Commissioning Panel. The vision of this approach is for London Boroughs to vest in the collective power of London to shape the nature and quality of care provision across the city in the future. One outcome has been the formation of a Pan London Vehicle (PLV). The PLV is leading on the development of a welfare secure provision in London and will serve as a mechanism for future joint commissioning. Although our aspiration is that this in time will include independent fostering agencies and children's

homes, the immediate timescales do not meet our urgency for this procurement.

- 5.44. In recent years the growing foster carer shortage nationally has become exacerbated by the effects of Covid-19 and the cost of living crisis - but this national issue was prevalent even before. Fostering services nationally continue to report that there are national shortages of carers, particularly those for teenagers, children with complex needs or disabilities, sibling groups and so on. In response to this placement crisis the DfE has published *Children's Social Care: Stable Homes, Built on Love - Government Consultation Response (September 2023)* - where plans for national reform through Regional Care Co-operatives propose a package of measures that will collectively address key issues in the system, including placement storages and excess profit making by providers.
- 5.45. **Preferred Option**
- 5.46. Join the Newham DPS for the provision of Independent Fostering Agencies.
- 5.47. Through partnership working with another London local authority we will have the opportunity to share resources through joint quality assurance visits and build better relationships with our providers which will create efficiencies for Hackney. Working in partnership will also promote better information sharing about local carers, improved risk management and more power to shape and influence the market as well as control rising fees.
- 5.48. Joining an established DPS managed by Newham offers flexibility as unlimited suppliers may join and is also open to other local authorities to join. The DPS includes the submission of pre-agreed pricing structures linked to the Real Living Wage. Suppliers have submitted core prices and additional placement costs and we anticipate control over additional placement costs and more certainty of additional costs based on bidder's submissions. Newham's DPS is live until the 8th of March 2026 with an option to extend for another 4 years.
- 5.49. **Alternative Options (Considered and Rejected)**
- 5.50. **Do nothing:** Suppliers could continue to be spot purchased without a DPS, but there would be a lack of purchasing control and the element of competition to drive cost efficiencies would not influence the price of provision. Spot purchasing does not go far enough in securing better value for money and is time inefficient.
- 5.51. **Operate a standard framework without the use of DPS:** This would be a 'static' framework, which would not allow new suppliers to enter the framework throughout its lifetime and would therefore reduce the flexibility available in the current and proposed systems.

- 5.52. **Hackney commissions a new framework as a single authority:** As referenced in section 5.8, IFAs are reluctant to join individual authority frameworks so there is a high chance of market failure. In addition, this would not support market shaping as a single authority would have limited influence over the market. Hackney would also have to allocate resources and funding to commission this project which would have to be funded from existing, already stretched budgets. Hackney doesn't currently have the resources necessary to manage a DPS so more than likely would require additional staffing resources to manage this. The length of time needed to complete a procurement exercise does not meet our needs in terms of urgency and getting some control over rising prices since the ending of LCS.
- 5.53. **Join another DPS (eg. Commissioning Alliance):** London Borough of Hackney has considered joining a framework or consortium with other local authorities for a framework or DPS. There is an established Dynamic Purchasing Vehicle (DPV) through the Commissioning Alliance, the cost to join this DPV is £936k over the lifetime of the DPV and it introduces a new IT system solution. The fee includes some contract monitoring but at a strategic level which is not responsive to emergency or individual level needs so the London Borough of Hackney is not assured that it will meet our needs. The unit costs for the Commissioning Alliance DPV are not submitted upfront so it would be more challenging when planning spend. Furthermore the DPS is not Real Living wage compliant.
- 5.54. **Procure jointly with East or North London Authorities:** Establishing a joint DPS with our neighbouring authorities can be challenging to organise as it means multiple authorities investing in the same ICT solution or joining a new IT system as well as funding and recruiting a central resource to support the commissioning project. All of which are likely to cost more than the proposed access fee for the Newham DPS.
- 5.55. See Section 5.31 Insourcing/Outsourcing considerations.
- 5.56. **Success Criteria / Key Drivers / Indicators**

There are 4 main key performance indicators that represent outputs and outcomes that will be used by the Council to monitor and measure the effectiveness of the service:

- 5.57. **Compliance** with the specification, the council's terms and conditions, the regulations, statutory guidance etc.
- 5.58. **Satisfaction** from Children and Young People's experiences
- 5.59. **Value for money** - achieving outcomes and outputs within the financial envelope and adding value
- 5.60. **Foster carer** and staff satisfaction

- 5.61. The service shall be expected to report against individual outcomes for Children and Young People, service outcomes, linked to the key objectives included in the Council's sufficiency strategy.
- 5.62. The proposed KPI set out in **APPENDIX 1** is designed to deliver positive benefits to our Children and Young People whilst being meaningful and measurable for the IFA.
- 5.63. These should be embedded in the service offer, providing a clear focus for staff and commissioners, and the IFA. The IFA shall demonstrate how it will achieve these outcomes for Children and Young People; evidence these outcomes using appropriate measurement tools; review their organisation's performance against the outcomes selected and provide monitoring feedback to the Council on their performance.
- 5.64. **Whole Life Costing/Budgets**
- 5.65. The cost of joining this DPS is £6,300 per Lot, per annum until the end of the DPS which is 8th March 2026 with the option to extend for 4 years until 2030. The whole life cost of joining this DPS until 2026 is £13,650 + £25,200 for the 4 year extension until 2030.
- 5.66. The cost of this would come out of the existing Placement Budget. The cost of accessing this DPS is £8,700 per annum less than the London Care Placements contract.
- 5.67. Although we would hope that 100% of placement made would be within the DPS this is not realistic, if we're working with approximately 40 IFAs at any time and have about 30 join the DPS then we can expect to make 75% of all new care arrangements through the DPS, although would aim for 100%. DPS providers would be contacted first and preference given to those providers as an incentive for new providers to join the DPS. This would be balanced with the individual needs of children and young people and the best matched carer for them.
- 5.68. Currently we have approximately 120 children placed with IFAs across 45 providers. 44 of those children across 10 IFAs are providers that are currently on the Newham DPS. Hackney would seek to renegotiate the terms and bring these arrangements in line with the DPS terms and conditions and prices.
- 5.69. **EXEMPT APPENDIX 2, Table 3: Cost comparison between current Hackney rates paid to IFAs and Newham DPS costs.**
- 5.70. It is anticipated that reductions in costs will come from more alternative placement options available on the DPS, including the use of block contract purchasing. This means buying a pre-agreed number of beds from a supplier, will potentially mean the rates will be at a lower cost to the Council.

- 5.71. It is expected that the DPS will enable the Council to provide a consistent approach to purchasing placements at prices stated by suppliers in applications to join the DPS.
- 5.72. From the bids received, a range of unit costs were submitted with a number of new suppliers submitting rates lower than current average. The average of rates submitted are 10% lower than the current average being paid by Hackney (for standard foster care).
- 5.73. The DPS does not commit the council to any given level of expenditure and there is no guaranteed level of spend with any of the suppliers admitted to the DPS. The new rates will only apply to new placements therefore the financial implications cannot be forecast at this stage however the unit costs and total spend will be closely monitored as part of the monthly budget monitoring process.
- 5.74. **Policy Context**
- 5.75. The recommendations in this report support all local policies relating to looked after children and care leavers; these policies are underpinned by statutory guidance published by the Department for Education. The statutory guidance that relates to this report is The Children Act 1989, The Care Leavers Regulations 2010, Fostering Services: National Minimum Standards. It also supports the council in its statutory responsibilities as a Corporate Parent. See Section 5.39 for Strategic Context.
- 5.76. **Consultation/Stakeholders**
- 5.77. London Borough of Newham completed a thorough consultation with internal and external stakeholders prior to going out to tender. **The proposals have been developed through formal and informal engagement with suppliers including 150 suppliers who attended virtual market engagement events to discuss the structure of the DPS and specification, the ambition for more collaborative working with a shared ambition to achieve excellent outcomes.**
- 5.78. London Borough of Newham produced the specification in partnership with their first Young Commissioner who was recruited to support the project, and develop the service specification and evaluation criteria for the services. Feedback from the wider children in care council and care leavers forum has also been built into the specifications.
- 5.79. There are no TUPE implications for this service.
- 5.80. **Risk Assessment/Management**
- 5.81. The Hackney Procurement Risk Analysis Tool (RAT) has classified this procurement as a high risk procurement.

5.82. The table below shows the specific risks associated with the project that have been identified and steps to be taken to address them

Risk	Likelihood	Impact	Overall	Action to avoid/mitigate risk
No guarantee that this approach will meet demand for placements in Hackney	Medium	High	Medium	This is primarily as a result of national workforce pressures that affect the recruitment and retention of foster carers. Maintaining some spot purchase arrangements will mitigate this risk and continue with in house recruitment.
Hackney may be locked into an agreed baseline fee that may be greater than it is able to achieve through single authority arrangements.	Medium	High	Medium	The procurement contract will renew on an annual basis with new fees set each year thereby driving competition. Although prices are agreed - officers always negotiate with providers to ensure best value. Fees would only be applicable to new arrangements but some providers have indicated they are willing to transfer contracts under the DPS - average rates submitted by Newham show at least 10% lower rates through DPS in comparison to what Hackney is paying now. There are significant longer term over arching benefits of working together with multiple authorities - sharing best practice, quality assurance, and more negotiating power with fees as IFAs are not currently covered by CCRAAG. The high demand for homes especially for children and young people with complex and challenging needs may result in higher unit costs especially as we want to have greater emphasis on achieving good quality outcomes. The impact of better outcomes should be better medium to long term value for money as placements are more stable even if the initial unit cost is higher. In the long term, if the outcomes and stability are better, then the overall unit costs may be

				lower.
Not all current providers are/will be contracted through the DPS arrangement so there is a likelihood that it will not be possible to maximise the supply of placements or the potential for long term discounts.	High	Medium	Medium	No different to where we are now, but would be meeting procurement regulations and the benefits of joint working with other authorities bring efficiencies. Hackney can use individual authorities' good working relationships with providers not on the DPS to promote them to join, on behalf of the partnership. There are approximately 15 providers on the DPS we are currently not using (as we have no current children with them) which will support increasing our placement capacity, and several new agencies that are not familiar to Hackney so the benefit outweighs any risk
Market failure	Low	High	Low	The DPS is already established with 27 providers - more market engagement is currently taking place to attract more providers to the DPS - Hackney is currently working with existing providers not on the DPS to encourage them to join. The provider market is strong with plenty of competition -whilst there is a national shortage of foster carers all agencies continue to have optimistic recruitment targets. The DPS will support creating a sustainable pricing structure and therefore is attractive to providers with fair fee reviews and annual uplift requests that are properly considered this will reduce the likelihood of agencies joining and then dropping off. Newham have developed a communication plan and hold regular market engagement events with the next event being held on the 14th of December 2023. The market engagement events are used to gauge interest, pick up on any barriers and co-produce and review quality requirements. All engagement and feedback from

				<p>providers has been positive. The DPS will also be open to new providers for up to eight years so there is no cut off period for new entrants. Providers have informed that opportunities for block contracts and partnership working with local authorities will be attractive and a strong reason to enrol on the DPS.</p>
<p>We are not strengthening sub regional or Pan London commissioning by working with a small group of authorities / duplication of work through development of Regional Care Cooperatives</p>	Low	Medium	Low	<p>Hackney is working with our eight North East London authorities to develop sub regional commissioning. We are keeping the North East Partnership commissioners informed of our proposals and they will be able to apply to use the DPS through the way it is being set up. There are also Pan-London discussions to commission collaboratively for complex adolescents and other areas of need which are in short supply in London. These plans are likely to take several years to implement while authorisation is sought through the governance structures of each local authority. This DPS will enable us to act swiftly to improve our arrangements in Hackney. There is no obligation to spend on a DPS and if the pan London arrangements are implemented, Hackney will still be able to participate.</p>
<p>Additional running costs for the DPS</p>	Low	Medium	Low	<p>The benefit of the DPS is that suppliers can enrol throughout the life of the DPS. This also means that resources will be required to enrol and vet potential suppliers. This resource is being funded by Newham and additional resources are funded by every</p>

				local authority that joins the DPS and pays the access fee. Newham's contract management team, Commissioning service and Strategic procurement will work together to operate the DPS and enrol new Suppliers so there is little impact on Hackney.
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5.83. TENDER EVALUATION

5.84. Evaluation

- 5.85. Tenders were evaluated based on 60% quality and 40% price. Suppliers must achieve a qualitative evaluation score of no less than 36% out of a total of 60% to be admitted onto the DPS.
- 5.86. The Quality scores for Lot 4 (Independent Fostering Agencies) were evaluated by using the Suppliers latest Ofsted inspection report overall judgement. Following evaluation, 27 registered IFAs are proposed to be accepted on the DPS. This will offer 2382 places and help to meet the demand.
- 5.87. There are 3 sub lots which include: 4a. Core Fostering Placements 4b. Specialist Fostering Placements 4c. Parent and Child Foster Placements without assessment.
- 5.88. Lot 4b is further divided into the below sub-categories: 4b i) Children and young people with significant challenging behaviour (for e.g. Autism, conduct disorder) 4b ii) Children and young people with risk taking behaviours to themselves and others 4b iii) Children and young people with offending or highly sexualised behaviours 4b iv) Children and young people with multiple and profound disabilities with complex medical needs and high level of medical appointments 4b v) Children and young people with significant mental health and emotional needs for e.g. suicidal ideation 4b vi) Children and young people with serious sexual and criminal gang exploitation risks.
- 5.89. Table 4 below shows the Suppliers that have been successful per lot. London Borough of Newham would not share a full breakdown with submitted prices per week and final evaluated scores until the access agreements have been signed due to this being commercially sensitive information.

5.90. Table 4: Successful DPS Suppliers and lots

Fostering Agencies	4a	4b(i)	4b(ii)	4b(iii)	4b(iv)	4b(v)	4b(vi)	4c
Barnardos South East	Y	Y	Y	Y		Y	Y	Y
Capstone Foster Care South East	Y	Y	Y	Y	Y			Y
Fostering Support Group Limited	Y					Y	Y	Y
Caring Hearts	Y							Y
Family First	Y	Y	Y	Y	Y	Y	Y	Y
Family Works	Y	Y	Y	Y	Y	Y	Y	Y
FCA South East	Y	Y	Y	Y	Y	Y	Y	Y
Five Rivers - London & East	Y				Y			Y
Fostering Innovations	Y	Y	Y	Y	Y	Y	Y	Y
Fusion Fostering North East	Y	Y	Y	Y	Y	Y	Y	Y
Fusion Fostering North West	Y	Y	Y	Y	Y	Y	Y	Y
Fusion Fostering South Central	Y	Y	Y	Y	Y	Y	Y	Y
Fusion Fostering South East	Y	Y	Y	Y	Y	Y	Y	Y
Fusion Fostering - The Midlands	Y	Y	Y	Y	Y	Y	Y	Y
Fostering Hearts	Y	Y	Y	Y		Y	Y	Y
Greater London Fostering	Y	Y	Y	Y		Y	Y	Y
South Coast Fostering	Y	Y	Y	Y		Y	Y	Y
HATOLS	Y					Y		Y
Homefinding	Y	Y	Y					Y
Infinity	Y	Y	Y	Y	Y	Y	Y	Y
ISP Enfield	Y	Y	Y	Y	Y	Y	Y	Y
LiKa	Y							
Orange Grove - London and Essex	Y	Y	Y	Y	Y	Y	Y	Y
Ryancare Fostering Ltd	Y	Y	Y	Y	Y	Y	Y	Y
Sunbeam Fostering Agency - London & South	Y	Y	Y	Y	Y	Y	Y	Y
TACT - East London	Y							Y
NFA – London	Y	Y	Y	Y	Y	Y	Y	Y

5.91. 89% the successful Suppliers admitted to the PDPS are rated as ‘Good’ or ‘Outstanding’ with Ofsted. The remaining are rated as ‘Requires improvement’ or have yet to be inspected. These agencies will require a risk assessment completed and signed off by a senior manager before they are used. Priority will be given to the good and outstanding homes.

5.92. Ofsted ratings will continue to be monitored throughout the life of the DPS to reflect the latest ratings.

5.93. The tender process has been successful in attracting a wider supply base. 30% of suppliers are new and not part of the LCS.

5.94. Of those remaining agencies who are part of the LCS, over 50% have opted to not submit their LCS prices.

5.95. See Section 5.13 for more background information on the tender.

5.96. **Insurance**

5.97. The specification and tender documentation stipulated the required levels of insurance listed below and all the suppliers that have entered onto the DPS have met these requirements.

5.98.

Insurance type	Required level
Employer's Liability Insurance	£5m
Public Liability Insurance	£10m
Professional indemnity Insurance	£2m
Physical and sexual abuse insurance (this can be either as a separate policy or included within Public Liability Insurance).	£10m

5.99. Insurance Services have confirmed that these levels are appropriate.

5.100. **Market Testing (Lessons Learnt/Benchmarking)**

5.101. See Section 5.25 Lessons Learnt and Exempt Appendix 2 (Table 3) Cost comparison between current Hackney rates paid to IFAs and Newham DPS costs for benchmarking.

5.102. The Independent fostering agency market is a growing and developed market with over 90 providers registered in London and 340 providers nationally. The proposal in this report takes into account the experiences of our neighbouring local authorities and presents a unique opportunity for innovation and collaboration with a group of like minded authorities looking for sustainable interim solutions whilst the pan-London and regional commissioning work develops.

5.103. **Savings**

5.104. In 2022-2023, £7.1 million was spent on independent fostering agencies against a budget of £7.7 million. There is no guarantee that prices submitted under the DPS will be lower than the current rates (although

average costs shared by Newham evidence that the current framework of providers average costs are lower than what we are paying), but the ambition of the new DPS is to lower the unit cost through the provision of some new lower cost services. This initiative is being supported by Newham who manage the DPS. The DPS prices will only apply to new placements from the date of implementation - although most fostering providers have indicated that Hackney will be able to negotiate once they have accessed the DPS. Based on the activity to date in 2022-2023, a 1 per cent reduction in prices for new placements would equate to a cost reduction of £0.07m across the first year.

- 5.105. We anticipate that the majority of savings will be delivered through cost avoidance and price increase control as a result of commissioning care arrangements through the DPS rather than on a spot purchase basis.
- 5.106. The Children and Families service is currently reviewing all care arrangements with the aim of reducing and ending any packages of support that are no longer required and identifying cases for joint funding with Health and Education.
- 5.107. See Exempt Appendix 2 for projected cost avoidance based on joining Newham DPS through benchmarking against current rates and DPS average rates.
- 5.108. There are also qualitative savings in the form of sharing resources with Newham and partner local authorities that join the DPS - which will result in efficiencies for Hackney by avoiding the duplication of fee negotiations, quality assurance visits and contract monitoring meetings.
- 5.109. As the DPS is open to new providers to join - regular market engagement events and co-production events will support us to identify any arising issues and gaps in provision that can be collectively addressed to ensure sufficiency of placements in the future.

6. Income Generation

N/A

7. Sustainability Issues and Opportunities, Social Value Benefits

- 7.1. **Procuring Green**: The PRIMAS did not identify any negative environmental impacts for this procurement. This procurement is targeting providers who have foster carers who already live in North and East London and will be recruiting more carers in these areas for our children. This will support more children being able to be placed locally, maintaining their education, family contact and social connections. This will allow young people to walk or use public transport when travelling to visit family and friends and social workers to utilise public transport when visiting young people in their new homes, which is more environmentally friendly.

This will support the reduction in social worker travel time and expenses associated with visiting young people at a distance.

- 7.2. **Procuring for a Better Society:** The PRIMAS did not identify any negative economic impacts for this procurement. This contract will support in providing high quality foster carers for Hackney's Looked After Children through a DPS managed by London Borough of Newham. We will have an annual break clause and the option to extend for another 4 years after March 2026. Providers joining the DPS are encouraged to employ local volunteers, peer staff and apprentices. The contracts have also been divided into lots to allow smaller providers to bid successfully for the contracts.
- 7.3. **Procuring Fair Delivery:** All providers are committed to paying the London Living Wage as a minimum for all the contracts and this requirement was part of the tender evaluation process. Modern Slavery, Forced Labour and Human Trafficking questions were included in the SQ by Newham. This procurement supports the sustainable procurement strategy by moving away from spot purchasing to a DPS which will help reduce the risk of fraud.
- 7.4. **Social Value:** In addition to the outcomes sought for individual children, there will also be community level outcomes which will further enhance children and young people's lives. Embedded within the new contract is a requirement for the provider to consider social value in all aspects of the business and provide evidence that it has considered and/or implemented actions flowing from the Public Services (Social Value) Act 2012. This may include, but will not be limited to: Supporting local economic development; Providing training and employment opportunities, including supporting local colleges and schools with work placements and apprenticeship schemes; Supporting and working with the local community.
- 7.5. The services procured will support the *Hackney Corporate Parenting and Children's Social Care Sufficiency Strategy 2023-25* - promotion of a fostering first approach, improved quality assurance and regional collaboration and improving outcomes for Looked After Children and Care Leavers by providing the best home at the right time, for the most competitive price.
- 7.6. **Equality Impact Assessment and Equality Issues:** The proposed procurement process aims to place children in the most appropriate setting for their specific needs taking into consideration any specific need relating to age, disability, transgender, pregnancy and maternity, race, religion/belief, sexual orientation, sex, marriage/Civil partnership, reducing negative outcomes which result from class or socio-economic disadvantage. Therefore, we anticipate that the procurement will result in greater equality of opportunity and ability to make more appropriate matches for individual children. The decisions recommended through this report have not identified any disadvantage relating to the protected characteristics.

7.7. An Equalities Impact Assessment (EQIA) has been completed for the DPS and will be reviewed annually.

8. **Proposed Procurement Arrangements**

To join the Newham DPS as outlined in the main section of the report.

8.1. **Procurement Route**

To join the established DPS and use this to call-off for individual fostering placements as required.

8.2. **Anticipated Contract Type**

Hackney will sign an access agreement to join the Newham DPS. Call-offs will then be completed from the DPS to award contracts for individual fostering placements.

8.3. **Sub-division of contracts into Lots**

The DPS is divided into lots as detailed in section 5.84. Above.

9. **Contract Management**

9.1. The DPS is managed by the London Borough of Newham. The access fee paid by Hackney (and every additional authority that will join) will provide 0.5 FTE additional contract officer post to support in the management of the DPS. The success of the DPS will be overseen by the Strategic Resource Manager in Corporate Parenting with oversight from the Head of Service for Corporate Parenting, Group Accountant and Category Lead. Local authorities that join the DPS will be part of contract management meetings and any issues or concerns will be addressed in monthly East London Commissioner meetings that are already established. Commissioners in Hackney will promote the DPS to any providers that are being used that are not yet registered and participate in any future market engagement events. London Borough of Newham has a dedicated contract management team that supports the management and implementation of this DPS in partnership with their commissioning agency service and strategic procurement teams.

9.2. **Key Performance Indicators**

9.3. The Council shall monitor and measure the effectiveness of the service against four Key Performance Indicators (KPIs) that represent outputs and outcomes:

- Compliance with this specification, the council's terms and conditions, the regulations, statutory guidance etc.

- Satisfaction - Children and Young people's experience
 - Value for money – achieving outcomes and outputs within the financial envelope and adding value.
 - Foster Carer and Staff satisfaction
- 9.4. The service shall be expected to report against individual outcomes for Children and Young People, Service outcomes, linked to the key objectives included in the Council's sufficiency strategy.
- 9.5. The proposed DPS set out below is designed to deliver positive benefits to our Children and Young People whilst being meaningful and measurable for Independent Fostering Agency.
- 9.6. These should be embedded in the service offer, providing a clear focus for staff and commissioners, and the Independent Fostering Agency. The Independent Fostering Agency shall demonstrate how it will:
- Achieve these outcomes for Children and Young People
 - Evidence these outcomes using appropriate measurement tools
 - Review their organisation's performance against the outcomes selected
 - Provide monitoring feedback to the Council on their performance
- 9.7. See Appendix 1 for full Key performance Indicators.

10. **Comments Of The Interim Group Director Finance**

- 10.1. This report seeks approval to join the established Dynamic Purchasing System (DPS) managed by London Borough of Newham for the provision of Independent Fostering Agencies. The annual cost of £6,300 to access the DPS would be met from existing resources within the placement budget, the cost is less than the £15k previously allocated towards the LCS contract.
- 10.2. It is anticipated that reductions in costs will come from more alternative placement options available on the DPS, including the use of block contract purchasing. This means buying a pre-agreed number of beds from a supplier, will potentially mean the rates will be at a lower cost to the Council. It is expected that the DPS will enable the Council to provide a consistent approach to purchasing placements at prices stated by suppliers in applications to join the DPS.
- 10.3. The DPS does not commit the council to any given level of expenditure and there is no guaranteed level of spend with any of the suppliers admitted to the DPS. The new rates will only apply to new placements therefore the financial implications cannot be forecast at this stage however the unit costs and total spend will be closely monitored as part of the monthly budget monitoring process. As a guide in 2022-23, £7.1

million was spent on independent fostering agencies against a budget of £7.7 million.

11. **VAT Implications on Land & Property Transactions**

- 11.1. As we are undertaking this under a special legal regime (i.e. statutory duty), this is a non-business supply such that input tax on attributable costs is recoverable in full.

12. **Comments Of The Acting Director, Legal, Democratic & Electoral Services**

- 12.1. This report was assessed as High Risk by the Council and therefore this Report is being presented to Cabinet Procurement and Insourcing Committee for approval in accordance with paragraph 2.10 of Contract Standing Orders.
- 12.2. Paragraph 5.6 of Contract Standing Orders states that Officers may use a Framework Agreement or DPS, set up by other Central or Local Government organisations and/or other public bodies. Details of the London Borough of Newham Dynamic Purchasing System proposed to be accessed by the Council are set out in this Report.
- 12.3. It should be noted that this Report only provides for approval of contract award to join the London Borough of Newham Dynamic Purchasing System and the Council will need to sign an admission agreement to evidence this. The award of contracts for any services to be performed under the Dynamic Purchasing System will be subject to the approval of relevant officers in line with the relevant Scheme of Delegation in due course.

13. **Comments Of The Procurement Category Lead**

- 13.1 This report seeks approval to join the established DPS managed by the London Borough of Newham for the provision of Independent Fostering Agencies. The annual cost to access the DPS will be £6,300. Joining the DPS does not commit the Council to any minimum level of expenditure and it is unlikely that it will replace all spot purchasing. However, as a guide, in 2022-23, £7.1 million was spent on independent fostering agencies against a budget of £7.7 million.
- 13.2 Joining the Newham DPS as set-out in this report is supported as an appropriate and compliant procurement route that will enable the regulation of rates and supplier contracts whilst also contributing to the delivery of savings in an area which currently relies on a large amount of spot purchasing. The need to regularise arrangements has been given particular urgency by the ending of the LCS arrangements.

13.3 The report has been classified as High Risk (total expenditure will potentially exceed £2 million over the lifetime of the agreement) and has therefore been presented to Cabinet Procurement and Insourcing Committee for approval.

Appendices

Appendix 1 - Full Key Performance Indicators

Appendix 5 - London Borough of Newham Officer Decision Record - Award report for Commissioning homes for Children looked after and care leavers (Round 1 Lot 4: Independent Fostering Agencies)

Exempt

Exempt Appendix 2 - Table 3: Cost comparison between current Hackney rates paid to IFAs and Newham DPS costs

Exempt Appendix 3 - London Borough of Newham Specification

Exempt Appendix 4 - Fostering Recruitment and Retention Strategy 2022/23

By Virtue of Paragraph(s) 3 Part 1 of schedule 12A of the Local Government Act 1972 this report and/or appendix is exempt because it contains Information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Background documents

None

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