


<p>London Borough of Hammersmith & Fulham</p> <p>CABINET</p> <p>7 OCTOBER 2019</p>		
<p>APPROVAL OF PROCUREMENT STRATEGY AND PAYMENTS TO THE WEST LONDON ALLIANCE FOR USE OF AND CONTINUED ACCESS TO DYNAMIC PURCHASING VEHICLES FOR CHILDREN'S SOCIAL CARE AND SUPPORT SERVICES</p>		
<p>Report of the Cabinet Member for Children and Education: Councillor Larry Culhane</p>		
<p>Open Report</p>		
<p>Classification - For Decision</p> <p>Key Decision: Yes</p>		
<p>Other services consulted: Children's Services Team and Finance have been consulted in the preparation of this report.</p>		
<p>Wards Affected: All</p>		
<p>Accountable Director: Steve Miley, Director of Children's Services</p>		
<p>Report Author: Will Parsons, Strategic Lead, Children's Services; Craig Holden, Commissioning Development Lead, Children's Services.</p>	<p>Contact Details: Tel: 07768 486 764 E-mail: will.parsons@lbhf.gov.uk</p>	

1. EXECUTIVE SUMMARY

- 1.1 This report summarises the collaborative work undertaken between Hammersmith & Fulham and the West London Alliance (WLA) group of authorities to ensure sufficient availability of three types of placements. These are fostering agency placements, children's residential home placements and placements for children and young people with special educational needs in independent and non-maintained schools.

- 1.2 The report is requesting permission from Cabinet to approve the procurement strategy to enter into an access agreements with the West London Alliance (WLA) and to call off from the WLA Dynamic Purchasing Vehicles for the services set out above from April 2018 onwards.
- 1.3 In addition to this, the report seeks retrospective and future approval for payments to the WLA for the continued use of, and access to, these services from 2018/19, through to the remainder of the life of the Dynamic Purchasing Vehicles (potentially 2023/24) where this continues to be the recommended placements option. Provision of access to the DPVs will result in more choice and flexibility when sourcing placements for these services.
- 1.4 The West London Alliance (WLA) is a partnership between nine West London local authorities of Barnet, Brent, Ealing, Hammersmith & Fulham, Harrow, Hillingdon and Hounslow, Westminster and Kensington & Chelsea. The alliance is governed by a board of the borough leaders and steered by the councils' chief executives, who also directly sponsor individual WLA programmes.
- 1.5 The delivery of quality placement provision for a child under the Children's Act 1989 and subsequent legislation involves many of the frontline teams within H&F. Prior to membership of the WLA partnership, H&F, as part of Tri-borough operations accessed Framework Agreements and used spot purchasing arrangements to secure placements. The use of the DPVs through the lead boroughs of Ealing, Barnet and Brent represent value for money, choice and improved flexibility. The value generated by these economies of scale is directly congruent with H&F's commitment to being ruthlessly financially efficient while delivering quality services to residents.

2. RECOMMENDATIONS

- 2.1 That Cabinet notes and approve the adoption of the Procurement Strategy and Business Case at Appendix 1 to allow the Council to enter into the following three Access Agreements:
 - i) With the London Borough of Barnet for the provision of Independent Fostering Agency placements through a Dynamic Purchasing Vehicle from April 2018 for three years, with three options to extend the term, each option being of one further year
 - ii) With the London Borough of Ealing for the provision of Children's Residential Home placements through a Dynamic Purchasing Vehicle from July 2018 for three years, with three options to extend the term, each option being of one further year
 - iii) With the London Borough of Brent for the provision of Special Educational Needs placements at Independent and Non-Maintained Special Schools through a Dynamic Purchasing Vehicle from October 2018 for three years,

with three options to extend the term, each option being of one further year.

- 2.2 That Cabinet approves payment of £162,000 to the West London Alliance, this sum representing the Council’s contribution to the operation of the three Dynamic Purchasing Vehicles in financial years 2018/19 and 2019/20, during which time the Council benefitted from being allowed to access the three Dynamic Purchasing Vehicles.
- 2.3 That Cabinet agrees that a payment of approximately £82,500 in 2020/21 to the West London Alliance to allow the Council to access the three Dynamic Purchasing Vehicles during that financial year. Costs for 2020/21 have not yet been agreed and so this is an estimate based on the previous 2 years.
- 2.4 That in the event any or all of the options to extend the three Dynamic Purchasing Vehicles are exercised that Cabinet agrees to delegate the decisions for the Council to continue to access any or all of the three Dynamic Purchasing Vehicles in 2021/22, 2022/23 and 2023/24, with a total consequential spend of approximately £247,500, to the Director of Children’s Services in consultation with the Cabinet Member for Children and Education.

PROGRAMMES	CONTRIBUTION PER BOROUGH FOR FY 2018/19	CONTRIBUTION PER BOROUGH FOR FY 2019/20
Commercial & Procurement	£15,000	£12,000
Children’s Commissioning	£44,500	£44,500
Care Place	£23,000	£23,000
Total	£82,500	£79,500

3. REASONS FOR DECISION

- 3.1 The aim of this commitment is to ensure that there is good quality, locally available provision for Looked After Children which represents value for money and is compliant with the Public Contract Regulations 2015. The DPVs are used by the participating WLA boroughs, other interested local authorities and other organisations that carry out part or all of the statutory duties relating to children.
- 3.2 The DPVs allow collective procuring, with a single system and consistent terms and conditions, which supports providers as well as local authorities. Access to these economies of scale and the ability to more accurately meet the needs of the child or young person allows for delivery of a higher quality, more cost effective service. The access fees for these DPVs represent less than 2% of the annual cost of placements. Given their stated benefits, and the success of very similar arrangements in the adult social care market, their adoption represents a worthwhile addition to H&F's provision for these vulnerable groups.
- 3.3 In order to maintain stability within the DPV arrangements, participating local authorities are required to provide 12 months notice if they wish to withdraw from the contract. Additionally the increasing market footprint of the DPVs offers a level of collective stability, with three new local authorities currently in the process of joining.
- 3.4 Each DPV operates as a digital marketplace of pre-approved suppliers for specific categories of placements for children. The participating Councils advertise their placement requirements on the e-Brokerage system Careplace. These requirements are then responded to by providers on the system. Once the bids have been assessed against the requirements, the authorised officer accepts the successful bid and issues a digital contract (IPA) to secure the placement offer. Social care teams agree the placement that best matches the need of a young person. Providers are then approached based on their ability to deliver the type of care required based on agreed criteria.
- 3.5 One of the key pillars of participation in the alliance is the Children's Programme which is supported by a Strategic Commissioning, Procurement and Contract Management Service that delivers against scale and sub-regional objectives to deliver a more efficient and effective approach to Children's service delivery and market engagement. Details of the contract monitoring and quality assurance that is carried out can be found in Appendix 1 (para. 11).

3.5 Benefits of the service include:

Value for Money – The DPV approach creates the opportunity to make use of the combined purchasing power of multiple local authorities and an established marketplace. This provides greater diversity of placement provision at capped rates, also cost management and unit cost reduction compared to existing spot purchase arrangements.

Market Management – The WLA provides active market management across the DPVs, this includes supporting individual local authorities with negotiations and holding regular engagement events with providers operating with each category to encourage the development of local provision. The CarePlace, platform also supports competition between providers as it identifies the reasons why a particular bid was not successful promoting providers to consider their future offers.

Procurement – Joining the DPV eliminates the need for local authorities to invest their own time and resource in developing their own contracts.

Quality – All suppliers on the DPV must meet a set of qualifying criteria and then maintain them for the duration of the DPV. Placement/brokerage officers can also see if any concerns have been raised about any provider on the DPV by other councils.

4. PROPOSAL AND ISSUES

4.1 This report proposes making use of the West London Alliance Dynamic Purchasing Vehicles by entering into Access Agreements with Ealing, Barnet and Brent Councils.

4.2 Analysis clearly shows that for the spot purchasing of placements, authorities acting alone have very limited influence over the availability, price and quality of services.

4.3 The West London Alliance collaborative work, under the Children's Commissioning Programme, offers an opportunity to work on a sub-regional, multi-borough basis. A multiborough approach provides the greatest opportunity to address some of the challenges the council faces when trying to secure spot purchased placements. This is particularly important for Hammersmith and Fulham given our relatively low levels of in-borough supply, high numbers of placements and our comparatively high level of out of borough placements.

5. OPTIONS AND ANALYSIS OF OPTIONS

5.1 **Option 1: (Recommended) Enter into the Access Agreements with the Lead Boroughs of Ealing, Barnet and Brent for the West London Alliance (WLA) Dynamic Purchasing Vehicles**, and call-off contracts for the following services:

- Independent Fostering Agencies led by Barnet Council;
- Children's Residential Homes led by Ealing Council.
- Special Educational Needs for Independent and non-maintained special schools led by Brent Council

Through accessing these DPVs, H&F can minimise the need to secure placements via spot purchasing and individually brokered packages with providers, a practice which is not sustainable. The Dynamic Purchasing Vehicles (DPV) replaces the majority of historic spot purchasing arrangements, allowing H&F to benefit from better contractual arrangements with agencies at a more competitive price. Failure to take advantage of the this would therefore not be in the interests of H&F residents and service users.

5.2 Option 2: (Not recommended) Do nothing,

Given the market pressures and issues identified from the recent pan London and local analysis, coupled with the current administratively intensive approach to spot purchasing, doing nothing is not considered a viable option.

5.3 Option 3: (Not recommended) Procure as a single borough service.

This would mean that H&F would not be party to the economies of scale provided by the WLA offer. Thus it is likely that a single borough service at this time would be more costly and offer less value for money.

6. CONSULTATION

- 6.1 Consultation meetings has taken place with the relevant operational teams across the Council in the preparation of this report.

7. EQUALITY IMPLICATIONS

- 7.1 As required by Section 149 of the Equality Act 2010, the Council has considered its obligations regarding the Public Sector Equality Duty and it is not anticipated that there will be any negative impact on groups with protected characteristics, as defined by the Act, from these proposals.

Implications completed by: Fawad Bhatti, Social Inclusion Policy Manager, tel: 07500 103617.

8. LEGAL IMPLICATIONS

- 8.1 Paragraph 8.11 of the Contract Standing Orders (CSOs) require a procurement strategy for any procurement process with a contract value over £100,000. The strategy required in respect of the recommendations in paragraph 2.1 of this report is set out in Appendix 1.
- 8.2 The payments detailed in paragraphs 2.2 and 2.4 of this report are over £100,000, and so in accordance with CSO 17.3.2 they must be approved by the Cabinet.
- 8.3 The payment detailed in paragraph 2.3 of this report is between £25,000 and £100,000, and so in accordance with CSO 17.2 it must be approved by the relevant Cabinet Member.
- 8.4 Per paragraph 14.5 of this report, the DPVs have been approved by the council's in-house procurement team.

Implications completed by: Hector Denfield, associate at Sharpe Pritchard, on secondment to the Council hdenfield@sharpepritchard.co.uk

9. FINANCIAL IMPLICATIONS

- 9.1 The contribution for 2018-19 of £82,500 was accrued in 2018-19 so there will be no financial impact on 2019-20. The amount formed part of the reported year end overspend in Children's Services.
- 9.2 The 2019-20 contribution of £79,500 is not budgeted so will cause a overspend that will be reported as part of CRM 3 and the department will need to identify mitigating actions to manage this during the year.
- 9.3 Saving information from the WLA suggest £364,000 savings over a 3 year period as a result of participation in the scheme. Where these reductions have materialised they are already built into the placements spend projections and will not be an additional cashable saving. Although the contributions are not specifically budgeted, the use of the DPVs are an important means of securing value for money in placements and benefits from the economies of scale in relation to officer time in procuring placements. Should the Council withdraw from these arrangements there is a significant risk that costs could increase in excess of the expected contribution.

Implications completed by: Alex Pygram, Strategic Finance Manager, tel: 07776 672 580.

Implications verified by Emily Hill, Assistant Director, Corporate Finance, tel: 020 8753 3145.

10. IMPLICATIONS FOR LOCAL BUSINESS

- 10.1 As some of the placements will be made out of borough the WLA Dynamic Purchasing Vehicles will also provide an opportunity for the Council to encourage providers it has worked with in the past to be part of the arrangements. The Dynamic Purchasing Vehicles will also allow providers to join or leave at any time this creates opportunities for SME's and social enterprises as well as enabling the development of local businesses in the provision of this service. The DPVs will therefore be able to support ongoing diversity and there are no adverse implications anticipated for local businesses.

Implications verified by: Alben Karameros, Economic Development Team, tel: 02079388583.

13. RISK MANAGEMENT IMPLICATIONS

- 13.1 An appraisal of risk accompanies the procurement strategy at section 3 of the appendix to the report. Benefits arise from the approach and clearly contribute to the council priority, Being Ruthlessly Financially Efficient through the opportunity to address some of the challenges the Council faces when trying to

secure spot purchased placements on a collaborative basis. The proposed approach creates the opportunity to make use of the combined purchasing power of multiple local authorities and an established marketplace which facilitates participation from both existing and new providers.

Implications verified by: Michael Sloniowski, Risk Manager, tel: 02087532587.

14. PROCUREMENT IMPLICATIONS

- 14.1 The author of the report has described how the council are currently accessing three Dynamic Purchase Vehicles (DPV's) operated by the West London Alliance (WLA) for the purposes of securing residential, fostering and special educational needs placements. The report and its appendix evidence the financial and qualitative benefits of adopting this approach.
- 14.2 The use of this procurement approach has not been agreed as a procurement strategy by Cabinet as required by Hammersmith & Fulham Contract Standing Order (CSO) 8.11. Additionally, the council has not become a party to the required access agreements with the London Boroughs of Barnet, Brent and Ealing enabling them to formally access the DPV's.
- 14.3 If the Council had been a party to the three access agreements in financial years 2018/19 and 2019/20 it would have been required to make payments to the WLA totalling £162,000. It is considered that as the council has received the full benefits of being allowed to access the three DPV's it should make this payment to the WLA. As this proposed payment exceeds £100,000 it must be agreed by Cabinet in accordance with CSO 17.3.
- 14.4 The report's recommendations seek to regularise the current position by requesting that Cabinet approve the Procurement Strategy and Business Case with consequential approval for the Council to become a party to the three access agreements and as a participating authority make the required payment for utilising the DPV's in 2020/21 (the final year of the initial three-year term) of £82,500.
- 14.4 The three DPV's were established on an initial term of three years with each having three options to extend the term, each option being of one further year. If any or all of these nine options are exercised the author of the report is requesting that Cabinet delegate the decision whether or not to continue to access those DPV's which have been extended to the Director of Children's Services in consultation with the Cabinet Member for Children and Education. If all nine options are exercised and the Council continues to utilise each of the three DPV's in financial years 2021/22, 2022/23 and 2023/24 the total consequential payment by the Council to WLA, subject to any inflationary uplift, would be approximately £247,500.
- 14.5 It is considered that the procurement of the three DPV's was fully OJEU compliant.

Implications completed by: Tim Lothian, Procurement Officer, 020 8753 5377

15. IT IMPLICATIONS

- 15.1 There are no direct IT implications as WLA will continue to deliver the Care Place system which is the frontend system for WLA Dynamic Purchasing Vehicles.
- 15.2 IM implications: (the) Privacy Impact Assessment(s) (PIA) for any personal data processing activities should be reviewed to reflect any changes to the way that data is processed and stored (e.g. the Business Continuity Management system; the Emergency Response Extranet). This will ensure all potential data protection risks are properly assessed with mitigating actions agreed and implemented.
- 15.3 Any contracts need to include H&F's data protection and processing schedule if this is not yet the case. This is compliant with the General Data Protection Regulation (GDPR) enacted from 25 May 2018.
- 15.4 Any suppliers engaged in delivery of the service will be expected to have a Data Protection policy in place and all staff will be expected to have received Data Protection training.

Implications completed by: Veronica Barella, Chief Information Officer, 020 8753 2927.

BACKGROUND PAPERS USED FOR THIS REPORT

None

LIST OF APPENDICES:

APPENDIX 1: BUSINESS CASE

BUSINESS CASE

1. BUSINESS CASE – WHY THE PROCUREMENT IS NEEDED

The WLA strategic commissioning approach seeks to achieve an environment where the needs of our young people are met effectively by the market. This is enabled by Local Authorities collectively procuring with a single system and consistent terms and conditions, this position also provides the LAs access to fair rates driven by competition.

The WLA assure this with a contract management approach which holds providers to account for quality and cost and a commissioning approach which supports market development.

CarePlace provides real time information from our DPVs which supports daily purchasing decisions and negotiations with providers. It also helps to ensure the right placement in the right place and at the right time. Data also enables us to be intelligent customers, by supporting evidence based commissioning and effective market management. Data also enables providers to better meet the needs of Local Authorities. The WLA have delivered significant financial cash and cost avoidance savings from our approach to the market, but also from process improvements and the reduced duplication of activity across LAs.

2. FINANCIAL INFORMATION

The costs of the Dynamic Purchasing Vehicle will be met from the budgets within children's services. This approach will ensure that the Council is purchasing services through a controlled route rather than through spot purchases. It is anticipated that the DPV will improve the brokerage and placement process and ensure that these are achieved at the best cost, which will assist the Council with managing its costs within the base budget. It will also provide more certainty of future costs as the expectation is that the DPV rate will not increase significantly over the life of the contract.

Core Service Benefits – Removed duplication of the procurement process, saving approx. £180k saving across the 3 DPV's (estimated cost of £60k per procurement). DPV set up to be able to block contract, significantly reducing time to procurement (approx. 9 months) and associated costs (£40-60k per procurement)

Evaluation process – (i.e. OFSTED; insurances; financial viability, reference checks etc) completed by WLA, estimated to be equal to £15k saving per LA given the open nature of the procurement (0.25 FTE of admin time over 3 years).

There is an anticipated £3m* in savings through improved contract terms of the new DPVs for our current authorities. The contract terms and conditions,

including the 5% sibling and 5% long term discounts (cumulatively 10%), are significantly more advantageous to Local Authorities than the London Care Services contract.

Core Service Benefits – There is estimated to be £120k in efficiencies through sub-regional contract management, delivered from improved productivity through DPVs and economies of scale.

CarePlace – The CarePlace eContracting module automatically produces contracts, allowing LAs to securely send and sign-off Individual Placement Agreements (IPAs) which reduces resource required to complete these in hard copy and post. This has been illustrated to save a portion of an administrative post up to the value of £18k (dependent on LAs existing operating model). The CarePlace competitor analysis illustrates that our authorities pay less than a quarter of the cost of market rates for similar platforms including Service Directory and eBrokerage (minimum est. £250k for Adults and Children's services based on current use in West London)

3. OPTIONS APPRAISAL AND RISK ASSESSMENT

Alternative options when determining the most effective approach to the spot purchasing of children placements can be summarised as follows:

- Develop a DPS approach in collaboration with other boroughs (WLA) – recommend option
- Doing nothing and continue with existing spot purchasing approach
- Develop a Framework Agreement approach on a sovereign borough basis

Given the market pressures and issues identified from the recent pan London and local analysis, coupled with the current administratively intensive approach to spot purchasing, doing nothing is not considered a viable option.

Framework Agreements can offer many benefits but can be inflexible as they do not allow for new providers / new services to join and 'enter the market' during their typical 4-year duration. With one of the key issues for Hammersmith and Fulham being securing sufficient and diverse supply, this is not considered to be the best approach for the future purchasing of care home and supported living placements.

Block contracting has some clear advantages in relation to securing supply and indeed Hammersmith and Fulham is able to secure an element of in-borough supply by virtue of in-house fostering. However, given that the in-borough supply is insufficient, and that out of borough purchasing patterns are very dispersed, the scope to enter into block contracts with out of borough provision is very limited and carries greater risk than it does benefit.

Having considered the other options developing a DPS approach has been identified as the option that offers some of the benefits of block contracting and Framework Agreements but without the inflexibility and risk.

DPV Benefits for Local Authorities

The benefits of using these services are set out in the main report at 3.4. Additional benefits include:

Choice & competition – The DPVs drive competition, supporting Local Authorities to get the best price and can find the right placemat at the right time. Supports market stimulation – The DPVs allow new entrants as they are constantly open. LAs have the option enter block contracts very quickly.

Embedded discounts and best practice T&Cs – Clear and consistent discounts, monitored centrally.

Quality Assurance – assurance that ongoing provider monitoring takes place. This potentially also enables efficiencies in local practice.

Collaboration between authorities – Facilitate Local Authorities working across borders, reducing the ‘Bidding War’ within which Local Authorities compete with each other.

Compliance with Regulations – ensures compliance with both the Public Contract Regulations 2015 and the Children & Families Act 2014, reducing the risk of legal challenge.

Placement Purchasing – Streamlines the way in which we buy and contract placements.

Intelligent Customer – supports Local Authorities to become intelligent customers, as they have data which provides clarity about need and gaps in the market. CarePlace also enables benchmarking with other LAs to benchmark performance and costs with other Local Authorities.

4. THE MARKET

The WLA work with LA members to engage with local suppliers and proactively look to get additional suppliers onto DPV that are not currently being used (where supply exists), including stimulating supply with block contracting arrangements. – Currently 63% more providers on the IFA DPV than old West London framework. – Greater number of Residential providers than on the London Care Services contract which has been around for many years.

PROCUREMENT STRATEGY

5. CONTRACT PACKAGE, LENGTH AND SPECIFICATION

The OJEU notices published in connection with these services include a total contract length of 6 years with an initial term of 3 years and the remaining years as optional extensions. The OJEU wording is as follows (3+1+1+1).

Furthermore, the estimated total value excluding VAT lists a minimum of £5,000,000,000.00 GBP across all DPVs however, the estimated value of the services to be purchased for the entire duration of the DPV is purely an indicative figure and cannot be guaranteed by the WLA. The DPV shall be open to all London Boroughs and Local Authorities listed below in England and Wales. The listed local authorities below may access the DPV's by way on an Access Agreement.

6. SOCIAL VALUE, LOCAL ECONOMIC AND COMMUNITY BENEFITS

The quality evaluation criteria require the successful contractor to demonstrate that they add value to their local community.

7. PROCUREMENT PROCEDURE

The procurement procedures have been let as OJEU compliant tenders by the following boroughs and in corresponding order with those listed below, Barnet Ealing and Brent:

- Specialist Fostering Service
- Residential Children's Homes Placements
- SEN Provision

PROJECT MANAGEMENT AND GOVERNANCE

8. PROJECT MANAGEMENT

The establishment of each DPV has been established in partnership between both the WLA and the relevant lead authority. This has included procurement and legal support from the lead authority and project management oversight from the WLA.

9. INDICATIVE GOVERNANCE TIMETABLE

The anticipated timetable for the approving this strategy is as follows:

BDT	1 August 2019
Political Cabinet	2 September 2019
Cabinet	7 October 2019

10. CONTRACT AWARD CRITERIA

Providers joining the DPVs are assessed on a two stages basis, first providers need to fulfil relevant thresholds for the following criteria:

1) OFSTED
2) Credit checks
3) Insurances

Where providers pass this first stage, and at the point Local Authorities proceed to call-off, the published call-off procedure lists the following criteria:

Criteria:
The need to promote the welfare or safeguarding of a child or young person.
Exclusion of Providers from consideration, on the basis of criteria set out in the DPV Suspension & Barring Policy.
Matching the requirements of a child or young person to the characteristics of a potential placement such as (although not exclusively): age, gender, ethnicity, language, facilities, location, specialisms and matching alongside other young people who may already be in placement.
Whether the provider can support the child/young person in the timescales required.
A child or young person's views.
Compliance with decisions, orders, judgements or directions from Court.
Regulatory changes/Judgements made by Regulatory bodies (i.e. Ofsted or CSSIW).
Price of provision and value for money.
Social value

11. **CONTRACT MANAGEMENT**

The WLA DPS approach will provide more robust and clear management information on how providers respond to requests for placements as well as how users, family members and carers exercise their choice. The Children's Programme is supported by a Strategic Commissioning, Procurement and Contract Management Service that delivers against scale and sub-regional objectives to deliver a more efficient and effective approach to Children's service delivery and market engagement. For participating LA's the West London Alliance will:

- Hold regular Provider Review Meetings
- Have oversight of provider activity, compliance and performance and be a source for strategic market intelligence
- Act as mediator to support both Las and Providers
- Be available for contract advice and queries
- Undertake KPIs & monitoring (e.g. OFSTED) and placing of Safeguarding Alerts on CarePlace
- Ensure that all issues of concern are escalated, and decisions made about suspension/barring
- Ensure non-compliant organisations are suspended/barred - Suspended providers will be unable to receive referrals via the DPV

- Undertake Quality Assurance and spot checks ☐ Mediate complaints/disputes
☐ Provide Feedback & qualitative information