

**Executive**

**26 November 2020**

Report of the Director of People  
Portfolio of the Executive Member for Children, Young People and  
Education

## **Wenlock Children's Home Contract Variation and Extension with Hexagon Care Services**

### **Summary**

1. This report requests that Executive approve a variation and extension to an existing contract with Hexagon Care Services, for the provision of residential care for young people.
2. The existing contract is due to expire on 7 December, but services by this provider are now required beyond this date.
3. A contract extension would support improved provision for children and young people in care, allowing them to remain in the city and represent a reduced cost in comparison to expensive out-of-area placements.
4. This report is scheduled under urgency procedures as it was not included on the published forward plan 28 days prior to this Executive meeting. It was not possible for this to be included on the forward plan within these timescales as the recommended course of action was only confirmed as a possibility after this deadline.

### **Recommendations**

5. Executive are asked to:
  - 1) Approve a contract extension and variation with Hexagon Care Services to facilitate a three bed residential care provision for children with particularly complex needs and to delegate to the Director of People (in consultation with the Director of Governance or her delegated officers) the authority to take such steps that are necessary to enter into the resulting agreement.

Reason: This provision is required to support sufficiency of places for vulnerable young people in the council's care. Providing care for vulnerable children in the city as opposed to care elsewhere provides better outcomes for children and more efficient use of council resources.

## **Background**

6. The provision or procurement of placements for Children and Young People in Care is a statutory duty upon the council, outlined within the Children Act 1989. This sets out a requirement for local authorities to work with key partners to secure, where reasonably practicable, sufficient accommodation for children in care which meets their needs. Where their circumstances are such that it would be consistent with their welfare, this accommodation should be within the local authority's area as far as possible.
7. During 2019/2020 there has been an increase in the number of children entering care in York. This follows a regional and national trend but also reflects a recalibration of services to support intervention for those children who had been previously subject to one or more Child Protection Plans for a long period of time but without sustained change or improvement being seen within their circumstances.
8. An external peer review in autumn 2019 determined that through this approach, the right children were now coming into care.
9. Currently, approximately one quarter of the children and young people in care in York are aged between 15 and 17. It is becoming increasingly hard to find placements for these young people in York as the overall demand across all sectors is outstripping supply. This situation has been further exacerbated by Covid-19, as has the increasingly complexity of need for this group of young people.
10. In July 2019, Executive approved a proposal to remodel the council's internal care options for young people through the purchase of three homes in York – this included one two-bed unit for younger children and two three-bed units for older young people. This proposed to deliver more residential care for children in York, as opposed to costly out-of-area placements. This was agreed as an invest-to-save option supporting better outcomes for children and young people in the council's care.

11. Unfortunately, it has not been possible to secure suitable properties to implement this model of working within the anticipated timeframes.
12. At this point in time, the shortage of available accommodation in York for children with complex needs means there is a significantly likelihood of new out-of-area placements being required. This is often less appropriate for the circumstances of the young person and significantly more expensive, creating additional financial pressures for the council.
13. Hexagon Care Services have an existing contract to deliver care for our vulnerable children. This provides six beds for children and young people, of which four are at Wenlock Terrace in Fulford and two outside York. This contract is currently due to end on 7<sup>th</sup> December 2020.
14. Arrangements are in place for the two young people currently in placement at Wenlock Terrace to step down to foster care in line with their care plan.
15. Given the challenges in availability of specialised placements, discussion was entered into with Hexagon Care Services (the provider) to understand if it would be possible for them to provide beds with support for complex needs at Wenlock Terrace. Extensive discussions were necessary regarding:
  - a. the level of complexity of need that they could support
  - b. the mapping of the suitable and appropriate age range of young people who may use this provision
  - c. the change of purpose required by the provider with the regulator,
  - d. the overall impact of Covid-19-related issues.
16. Suitable confirmation has now been received that the required provision is possible.

### **Consultation**

17. Consultation has so far been limited to relevant council departments, the Executive Member and Hexagon Care Services.

## Options

### *Option 1*

18. The **recommended** option is that, to increase the availability of residential care for children with complex needs within York, the existing contract with Hexagon Care Services is extended for 1 year with the option of extending for a further six months. It is also proposed that the contract is varied to provide three beds for children with particularly complex needs in Wenlock Terrace, instead of six beds (for children without complex needs) in the contract which is about to end.
19. If this option were approved, a waiver would be sought to remove the need to go out to the open market for this provision, under CYC Procurement Regulations.
20. The cost of the extended and varied contract would be £652,912 per annum.
21. There will always be a need for residential care for children in York and as such the proposal would be to continue to look for residential provision for children in York. This would be property market and Covid dependent. The longer term plan for Wenlock would be to adapt it into semi-independent accommodation for older looked after children as they prepare to leave care.

### *Option 2*

22. One **alternative option** (not recommended) would be to allow the contract with Hexagon Care Services to end. New placements would have to be found within the market, which is likely to increase the number of children in accommodation outside the city.

### *Option 3*

23. Another alternative option (not recommended) would be to allow the contract with Hexagon Care Services to cease and tender for an alternative provider in to deliver care provision from Wenlock Terrace, a building that is owned by CYC. The timeframe to undertake this

procurement exercise would not fit with the timeframe for children's needs.

## **Analysis**

24. Option 1 provides a swift route to facilitating more available placements in York. In doing so, the relationship with Hexagon Care Services would be maintained and the care market within York supported.
25. The benefits of placements within York are critical to many of our children and young people in care. It is well understood that continuing to live in a familiar place whilst maintaining community, family and educational support can significantly improve outcomes for the individual and is deemed best practice.
26. The cost of this option would be £653k. In comparison, the average cost of a residential place out-of-area is £4,600 per week (£718k per year for three young people) By contracting for these three placements in York, the council would save in the region of £65k pa compared to these young people being placed out of area.
27. Based on knowledge of the care market in York, it is not considered that there are any other providers would have this capacity available within the city.
28. Option 2 essentially represents a do nothing option, relying instead on the ability to identify alternative placements through existing spot purchasing approaches. As noted in paragraph 11, the current stresses within the care market do not give confidence that suitable placements could be found for all the children requiring them close to York.
29. Option 3 essentially is outside the needs of children's needs and is not cost effective. The price fixed with Hexagon Care Services provides a saving of 65k pa. The existing contract provides excellent value for money compared to the market for children with similar needs. Going to market now would take officer time, there are potential TUPE implications for the staff employed by Hexagon. This option would also disrupt existing relationships between staff and young people.

## Implications

- **Financial** - The annual cost of the preferred option is £653k pa for three young people. This compares to an annual cost in out of city residential placements of approximately £718k pa based on current average placement costs, giving a net annual saving of £65k. As the total out of city placement budgets are currently projected to overspend by more than £3m in 2020/21 this saving will represent a small mitigation against this pressure. As the majority of the out of city placement costs are charged to the Dedicated Schools Grant (DSG), this net £65k saving would be made up of a DSG saving of £366k and increased General Fund costs of £301k for three young people. However, as there are currently four vacant places at Wenlock Terrace, further GF savings of up to £320k may be generated against 2020/21 projected expenditure levels by no longer paying for these empty commissioned places.
- **Human Resources (HR)** – No implications identified.
- **Legal** - Due to the value of the contract the ability to extend and/or vary it is governed by the Public Contracts Regulations 2015 as well as the Contract Procedure Rules.

The proposal is to extend the contract for 1 year plus 6 months and to vary it in order to provide complex needs placements and 16+ age placements which can be offered by the Provider changing their “Statement of Purpose” to include offering placements for young children around age 11 upwards with complex needs. This amounts to a change in scope and will be £650k per year.

The intention would then be to spend the time during which the extension is in place in carrying out a procurement exercise to put in place the service required going forward.

The more a contract is changed from what it was originally, the more there is a risk of challenge for breaching the procurement regulations. It is possible to modify contracts during their term (in relation to scope and value) as permitted by Regulation 72 of the Public Contracts Regulations 2015. The service description in the current contract is fairly wide ranging so we can therefore rely on Regulation 72 to justify the variation of the contract to amend the scope.

The original contract entered into with Whistledawn (subsequently novated to Hexagon) confirms that the initial five year contract period was able to be extended at CYC's discretion by a further two years, and that Extension Period could then be extended further by either party subject to notice being provided "prior to the expiry of the Extension Period (or each subsequent extension period)" and the other party consenting to the proposed extension. No limit is placed on the number of extension periods available or the maximum duration of the contract.

It must be borne in mind that if the services contract is extended beyond December 2020, a new lease of Wenlock Terrace will be required to run alongside this.

The contract permits variations made by Deed of Variation, as long as the Change Control Procedure within the contract is followed.

- **Crime and Disorder** *No implications identified.*
- **Information Technology (IT)** *No implications identified.*
- **Property** *No implications identified*
- **Other** - *No implications identified.*
- **Equalities** The EIA has highlighted that this proposal provides good placement opportunities for children and young people with complex needs whilst future placement options are being developed in the city, these having been negatively impacted by an ability to find the right homes in the area and impact of Covid 19.

### **Risk Management**

30. The key risk related to the recommendation are in respect of the need for a waiver of procurement regulations.

### **Council Plan**

31. This recommendation supports the outcome "A better start for children and young people", particularly the aim to be excellent corporate parents.

## Contact Details

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**For further information please contact the author of the report**

***The report has been approved by the following people***

<b>Role</b>	<b>Name</b>	<b>Date of sign off</b>
<b>Legal</b>	<b>Janie Berry</b>	<b>17 November</b>
<b>Finance</b>	<b>Richard Hartle</b>	<b>As above</b>
<b>Assistant Director</b>	<b>Sophie Wales</b>	<b>As above</b>
<b>Corporate Director</b>	<b>Amanda Hatton</b>	<b>As above</b>

<b>Background papers</b>	Children in Care Residential Commissioning Plan – Executive – July 2019 <a href="https://democracy.york.gov.uk/mglIssueHistoryHome.aspx?Id=56401">https://democracy.york.gov.uk/mglIssueHistoryHome.aspx?Id=56401</a>
<b>List of appendices</b>	<b>None</b>
<b>Equalities Impact Assessment Template</b>	Please tick the box below to confirm it has been completed. <input checked="" type="checkbox"/>
<b>Wards Affected</b>	List wards or tick box to indicate all <b>All</b> <input checked="" type="checkbox"/>