

CABINET	AGENDA ITEM No. 6
26 SEPTEMBER 2016	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor Sam Smith, Cabinet Member for Children’s Services	
Contact Officer(s):	Lou Williams, Service Director for Children and Safeguarding	Tel. 864139

CONTRACT AWARD FOR NEW PERMANENCY SERVICE

R E C O M M E N D A T I O N S	
FROM : Service Director for Children & Safeguarding	Deadline date : N/A
<ol style="list-style-type: none"> 1. Award a contract to The Adolescent and Children’s Trust [known as ‘TACT’] for the delivery of the Permanency Service within Peterborough for a total value of £126,150,000 from 1 April 2017 until 31 March 2027 with a further option for the Council to extend for a 10 year period. 2. Authorise the Corporate Director: People and Communities to (i) extend the contract for a further 10 year period at a cost of up to £125,000,000, adjusted for inflation as necessary, should the Council exercise the option to extend, and (ii) approve any variations to the contract, subject to consultation with the Director of Governance. 3. Authorise the Director of Governance to enter into any other legal documentation necessary to document the contractual and other legal arrangements between the parties. 	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to Cabinet following a request from Councillor Sam Smith, Cabinet Member for Children’s Services.
- 1.2 The Creating Opportunities and Tackling Inequalities Scrutiny Committee considered this matter on 12 September 2016. A summary of the observations by Scrutiny will be available for Cabinet to consider at the meeting on 26 September 2016. The Scrutiny Committee report is attached as Appendix 1 to this report. The service specification of the Permanency Service is attached as Appendix 2.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to seek Cabinet Approval to proceed with contract award.
- 2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.3. ‘To take a leading role in promoting the economic, environmental and social well-being of the area.’

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/A
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4. DETAILS OF DECISION REQUIRED

- 4.1. Members will be aware of the proposal to develop a Permanency Service in Peterborough. Under these proposals, organisations were to be invited to tender for the opportunity to deliver a range of services in the City, including:
- Fostering and adoption services;
 - Services to support children and carers living in families under Child Arrangement and Special Guardianship Orders;
 - The Family Group Conferencing Service;
 - The opportunity to develop new services to better support children and young people returning home from care;
 - Some limited social work services to children in 'permanent' in-house foster placements and leaving and after care support for this group of children and young people.
- 4.2. This approach is designed to enable us to support improved outcomes for children in care and on the edge of care by ensuring that as many as possible live in stable, loving, and legally permanent homes, improving support for foster carers and so improving placement stability for children and young people in care, while reducing the overall financial cost to the Council. Savings will be achieved through reduced reliance on high cost Independent Fostering Agency placements, with a proportion of savings re-invested into services for children and young people in the City.
- 4.3. The full service specification for the Permanency Service is set out in Appendix 2 to this report. This provides detailed information about the aims and objectives of the new service, together with the performance monitoring arrangements that will be put in place to ensure that these are achieved.
- 4.4. The proposal to develop the Permanency Service is highly innovative, and is the first of its kind in the country. There is considerable interest at national level. This is coinciding with current increased concerns about the levels of profit being made from the provision of private sector fostering placements, and with the current focus of Government on improving outcomes for children and young people in care and on the edge of care.
- 4.5. There are a number of key aims and objectives required from the Permanency Service, including:
- Increasing the capacity of 'in-house' foster placements and so reducing the reliance on much more expensive Independent Fostering Agency placements;
 - Maintaining the current very good performance of adoption services in Peterborough;
 - Improving the support offered to carers of children and young people under Child Arrangement and Special Guardianship Orders;
 - Investing in developing Family Group Conferencing Services;
 - Investing in improving support for the significant numbers of children and young people who leave care and return to their parents or former carers;
 - Increasing the number of children who enjoy the security of legally permanent homes.
- 4.6. Together, achieving these aims and objectives will result in improved outcomes for children and young people. At the same time, the approach will support reductions in overall spending by reducing the numbers of children and young people placed in higher cost care placements.
- 4.7. Although the Permanency Service will be delivered through a commissioning arrangement, the service specification sets out the intention for delivery to be through a genuine partnership between the Council and TACT, as described in the governance arrangements, below.

Governance Arrangements

- 4.8. Subject to approval of the contract award to TACT, a Joint Governance Board will be established to include senior officers from the Council and TACT. This board will oversee

the activities of the Permanency Service and ensure that key performance indicators are being achieved. This Board will be chaired by the Director of Children's Services – at least initially - thus ensuring that there is senior level oversight of the development and operation of the new service.

- 4.9. Day to day management of the service would be the responsibility of TACT, but there are further arrangements for ensuring that the service is delivering the outcomes required of it, including through a Strategic Management Board, which will be established to oversee the detailed work required to establish the service, and an Operational Management Board that will have responsibility for ensuring that day to day operations are delivering the required outcomes. The Strategic Management Board functions will be likely to be subsumed into the other two boards once the new service is fully operational.
- 4.10. TACT will also be required to provide regular reports to Scrutiny Committee and the Corporate Parenting Committee as appropriate, detailing performance and impact on outcomes for children and young people.

Relevant Legislation

- 4.11. In delivering these outcomes the service will adhere to the requirements of legislation and statutory guidance throughout the period of the contract, and will adapt practices and processes in accordance with any changes. Key legislation and guidance relevant to deliver the service include:
- The Children Act 1989 and in particular statutory guidance relating to:
 - The Children Act: Guidance and Regulations Volume 1: Court Orders 2008;
 - The Children Act: Guidance and Regulations Volume 2: Care Planning, Placement and Case Review 2015;
 - The Children Act: Guidance and Regulations Volume 3: Planning Transition to Adulthood for care Leavers 2010;
 - The Children Act: Guidance and Regulations Volume 4: Fostering Services 2011.
 - The Care Planning, Placement and Case Review [England] Regulations 2010, as amended by:
 - The Care Planning, Placement and Case Review and Fostering Services [Miscellaneous Amendments] Regulations, 2013;
 - Adoption and care Planning [Miscellaneous Amendments] Regulations 2014;
 - The Care Planning and Fostering [Miscellaneous Amendments] Regulations 2015.
 - The Fostering Services Regulations 2011 and the Fostering Services National Minimum Standards 2011;
 - Family and Friends' Care: Statutory Guidance for Local Authorities 2011;
 - Short Breaks: Statutory Guidance on how to Safeguard and Promote the Welfare of Disabled Children using Short Breaks [2010];
 - The Children [Leaving Care] Act 2000;
 - Staying Put: Arrangements for Care Leavers aged 18 and above 2013;
 - Sufficiency: Statutory Guidance on Securing Sufficient Accommodation for Looked After Children 2010;
 - The Adoption and Children Act 2002;
 - Statutory Guidance on Adoption for Local Authorities, Voluntary Adoption Agencies, and Adoption Support Agencies 2013;
 - The Adoption Agencies Regulations 2005 [as amended by the Adoption and Care Planning [Miscellaneous Amendments] Regulations 2014];
 - The National Minimum Standards for Adoption 2014;
 - The Children and Young Person's Act 2008 including the Children and Young Person's Act 2008 [Relevant Care Functions] [England] Regulations 2014 and Statutory Instrument 2014 Number 2407;
 - The Children and Families' Act 2014;
 - The Special Guardianship Regulations 2005.
- 4.12. In addition, the contracted provider will be required to adhere to the requirements of the Data Protection Act 1998 and to Caldecott Guidance in respect of information held, regardless of whether this is held electronically or as part of manual records.

- 4.13. The above list is not exhaustive but sets out the main legislative framework under which the Permanency Service will operate. The overall aims and objectives of the Permanency Service are not deliverables that can be found in any single piece of legislation or guidance. The overarching principle of delivery of the service is that it offers a child centred service that delivers to at least the minimum statutory requirement in all areas of delivery.

5. CONSULTATION

- 5.1. A great deal of time and attention has been given to involving staff, foster and other carers and, at an appropriate level, children and young people, in the proposals to develop the permanency service at every stage through the process. This has included developing the service specification, through to helping to evaluate the submitted tenders. This consultation process has included staff from SERCO, a small number of whom are directly affected by these proposals, and with trades unions.
- 5.2. This involvement has been very helpful to the process as it has helped us to ensure that we have got our proposals right, that we have listened to the what foster carers have told us that they need, and have taken into account suggestions and any concerns raised by staff and children and young people.
- 5.3. One area of concern raised by staff has been any impact there may be on themselves, and particularly in relation to pension entitlement. Employees engaged in the work transferring will have their terms and conditions of employment protected under TUPE regulations. TACT has also confirmed their commitment to providing continued access to the Local Government Pension Scheme [LGPS] through obtaining Admitted Body Status to the LGPS. An admission body agreement will be entered into between TACT, the Council and Cambridgeshire County Council.
- 5.4. Assuming Cabinet agrees to the recommendation to award the contract, further extensive consultation will take place with staff, foster carers, young people and other stakeholders. This consultation will be on both an informal and formal basis. Extensive informal consultation involving all relevant stakeholders will take place in order to inform the final shaping of the service, while formal consultation will take place in relation to the transfer of members of staff to TACT under TUPE arrangements. These formal processes will apply to both Council and SERCO members of staff.

6. ANTICIPATED OUTCOMES

- 6.1 The anticipated outcome is that Cabinet approves the award of the contract for the Permanency Service from 1 April 2017 as detailed above.

7. REASONS FOR RECOMMENDATIONS

- 7.1. Although there are financial savings attached to this proposed contract, the approach to developing the proposed Permanency Service has been built on improving outcomes for vulnerable children and young people in Peterborough, as outlined in the sections above. To summarise, improved outcomes will be achieved as a result of:
- Increased placement choice for children and young people needing care or who are in care through an increased number of 'in-house' foster placements;
 - Better placement matching between children in care and foster carers whom we know well and who are local to Peterborough;
 - Increased placement stability as a result of improved levels of support and training for foster carers;
 - Increased capacity within the Family Group Conferencing Service, increasing the likelihood that children are able to remain with families on a sustainable basis or, where this fails, to remain within their extended family, benefiting from legal permanency as offered by a Child Arrangement or Special Guardianship Order;
 - Reduced risk of the breakdown of placements under the above orders coming to un-planned ends as a result of the development of improved support services that are in-line with adoption support;

- The development of innovative programmes to help to support children and young people returning home to their families after a period in care, reducing the likelihood of a return to care, and all the associated negative consequences to relationships and long term outcome;
 - The continued strong performance in relation to adoption and adoption support as outlined in the service specification;
 - The capacity of a new charitable provider to draw in other charitable organisations and funding streams to support children, young people and their families in Peterborough.
- 7.2. Paragraphs 4.14 – 4.48 of the report for Creating Opportunities and Tackling Inequalities Scrutiny Committee dated 12 September 2016 [Appendix 1 to this report], expand on the above bullet points and provide detailed information about the expected benefits for children and carers that will follow from the development of the Permanency Service.
- 7.3. This is an innovative project. Innovation tends to carry an element of risk. Possible risks have been minimised through the governance arrangements as detailed above, and through a range of other measures as set out in paragraphs 4.82 – 4.93 in the same report to Scrutiny dated 12 September 2016, at Appendix 1 to this report.

Procurement

- 7.4. The contract was procured under Regulation 74 of the Public Contracts Regulations 2015.
- 7.5. A Competitive Contract Notice was published through Delta, a system that publishes the opportunity to a number of tendering journals, such as Contract Finder and the Council's website. Bidders are directed to the Council's e-sourcing portal (Supplierforce) that gives them access to the council's Invitation to Tender (ITT) and supporting documentation. The ITT explains to bidders how the procurement process will be conducted and gives instructions on how to proceed with entering a compliant bid.
- 7.6. The open procurement process included a separate qualification stage (pass or fail) and an award stage (scored out of 1-00%); both stages are contained within the same Invitation to Tender (ITT) document.
- 7.7. The qualification stage assessed bidders against criteria that included: finance; insurance; safeguarding; quality assurance; licensing and registration; technical and professional ability and specific elements such as if they are a 'not for profit organisation'; willing to participate in open booking accounting and if they meet the legislative requirements regarding Registered Adoption and Fostering Agencies.
- 7.8. The ITT consisted of four elements, with the maximum scores for each listed below:
- Method statement questions [60%];
 - Presentations – four in total [20%];
 - Actual price [10%], and;
 - Pricing assumptions [10%].
- 7.9. Prior to entering their tenders, the participating organisations were afforded the opportunity to ask the PCC clarification questions; this allowed bidders to take account of the answers whilst compiling their bids. Once the bids were submitted the Main Evaluation Panel undertook a desktop evaluation of the ITT responses. Bidders were then invited to undertake four presentations that were evaluated by four separate panels, these included Staff, Foster Carers and Children and Young People. Another separate panel evaluated the Actual Price Submission. Bidders were asked to clarify certain elements of information prior to the final evaluation and moderation process occurring.
- 7.10. Tenders were evaluated on a Quality: Cost ratio of 80%:20%.
- 7.11. Three organisations submitted tenders which were evaluated as follows:

	TACT	Supplier A	Supplier B
	Weighted Score	Weighted Score	Weighted Score
Quality (60%)	44.39%	40.79%	41.73%
Price (10%)	9.87%	10%	8.33%
Financial Assumptions (10%)	7.00%	9.00%	6.00%
Evaluation Panels (20%)	13.5%	10.5%	9.75%
Total	74.78%	70.29%	65.81%

7.12. This means that the outcome of the evaluation process was that TACT supplied the winning tender with a total score of 74.78%.

7.13. In terms of the staff panel, TACT came just behind bidder A [with a difference in score of one mark] but was well ahead of bidder B. Foster carers rated TACT as the strongest bidder of the three. The panel of children in care placed TACT and bidder B as equal first, with bidder A placed significantly behind.

8. ALTERNATIVE OPTIONS CONSIDERED

8.1 The following options were considered and rejected:

8.2 Option 1 - Continuation of current services. This option was rejected for the following reasons:

- a) The Council has a responsibility to use public resources responsibly and faces significant budget pressures. Doing nothing would imply acceptance of reliance on as many as 100 relatively high cost placements for children and young people, leading to the need to make savings elsewhere in children's services;
- b) A tender exercise would generate competition within the market, potentially leading to innovation and the potential to invest in additional services for children and young people, as outlined elsewhere in this report.

8.3 Option 2 – Cease to provide placement services. This option was rejected as Peterborough City Council has a statutory duty to deliver these services.

9. IMPLICATIONS

Financial implications

9.1. The total value of the contract over the 10 year period is £125,250,000.

9.2. Under the terms of the contract, all budgets relating to the placement costs for children and young people in care, to the support of adoptive carers and carers under Special Guardianship or Child Arrangement Orders will transfer to the Permanency Service. The budget that will transfer is that which is sufficient to meet placement costs. The budget that will transfer is the equivalent budget for the cost of all placements as in the financial year 2015/16 - £11,666,309, and the full cost of staff transferring under TUPE [£1.5M for local authority staff and a further £76,000 for non-local authority staff], together with budgets associated with operating the service – mileage and so on. This budget will, however, reduce over the first two years of the contract as we expect TACT to have a quick impact on reducing the use of high cost placements. The table below shows how the budget is expected to reduce over the first four years of the contract, with the current financial year as a benchmark:

Item	2016/17	2017/18	2018/19	2019/20	2020/21
Placements	£11.67M	£11.02M	£10.77M	£10.77M	£10.77M
Salaries	£1.61M	£1.61M	£1.61M	£1.61M	£1.61M
Other	£0.12M	£0.12M	£0.12M	£0.12M	£0.12M
Total	£13.4M	£12.75M	£12.5M	£12.5M	£12.5M

- 9.3. The provider is expected to make savings of £650,000 in the first year and a further £250,000 in year 2. These targets were set at a time when we expected the contract to be awarded earlier in the current financial year. The contract start date of April 1st 2017 makes these savings more challenging to achieve.
- 9.4. TACT has indicated within the bid that it will not deliver the savings within the timescales, requiring more time to deliver the cumulative savings required. However, TACT will manage the delayed phasing of the savings, meaning that the Council will still make the savings identified, assuming that other factors such as the overall demand on the placement budget remains within the expected budget within the current financial year.
- 9.5. Any further surplus generated beyond the envisaged savings target will be subject to a savings share. This will mean that TACT will receive one third of any additional surplus to re-invest in services, while the Council will retain two thirds. Half of the money retained by the Council will contribute to the Council's savings targets, while the remaining half will be invested in prevention and early help services.
- 9.6. The full cost of staff, including on-costs, will transfer with the staff to TACT. There has been no attempt to 'asset strip' the service prior to transfer; we are committed to ensuring that TACT has the resources that it needs to deliver the improved outcomes that we want to see for our children and young people.
- 9.7. The service specification and contract allows for certain contingencies including an increase in placement costs due to increasing numbers of children and young people in care and/or an increase in demand for very high cost placements. Essentially, such pressures will be reported to the Joint Governance Board, which will look for ways of meeting the shortfall within the Permanency Service and children's services as a whole, which is in line with current approaches to when there is an increase in demand.

Procurement Implications

- 9.8. This procurement was conducted using an open procurement process compliant with the Public Contracts Regulations 2015; this utilised the new Light Touch Regime for Health, Social, Education and Certain other Service Contracts. This report is produced as part of Peterborough City Council's Governance Procedures.
- 9.9. Assuming the recommendations are accepted by Cabinet, the bidders will each receive Alcatel letters outlining what scores were achieved and the rationale utilised.
- 9.10. The Alcatel Letter explains that the provisional decision is subject to expiry of the voluntary ten-day standstill period, without challenge. The voluntary standstill period will conclude on 10 October 2016 and no contract will be awarded until after this date. Assuming the Key Decision is approved and subject to the provisional decision remaining unaltered as a result of any representations made during the standstill period, the expected date of contract award will be 11 October 2016, with an expected implementation date of 1 April 2017.
- 9.11. The voluntary standstill period ensures that any challenges are realised before the Contract Award Letters are sent out. Having a standstill period helps protect the Council against any unnecessary risks that may occur as a result of challenge. The Alcatel Letter also strongly advises the winning bidder not to enter into any expenditure before the contract is awarded.
- 9.12. The procurement process has taken into account the complex nature of this Permanency Services procurement and representations from the bidders. As a result, the timescales were extended to allow further questions to be answered by PCC and for these answers to be incorporated into the tender submissions.

Legal Implications

- 9.13. The tender was undertaken in accordance with Regulation 74 of the Public Contracts Regulations 2015.
- 9.14. As also set out in the Creating Opportunities, Tackling Inequalities Scrutiny Report [Appendix 1], the Permanency Service is required to adhere to the following legislation in relation to the provision of services:
- The Children Act 1989;
 - The Care Planning, Placement and Case Review (England) Regulations 2010, as amended by:
 - The Care Planning, Placement and Case Review and Fostering Services (Miscellaneous Amendments) Regulations, 2013;
 - Adoption and Care Planning (Miscellaneous Amendments) Regulations 2014;
 - The Care Planning and Fostering (Miscellaneous Amendments) Regulations 2015.
 - The Fostering Services Regulations 2011 and the Fostering Services National Minimum Standards 2011;
 - The Children (Leaving Care) Act 2000;
 - The Adoption and Children Act 2002;
 - The Adoption Agencies Regulations 2005 [as amended by the Adoption and Care Planning (Miscellaneous Amendments) Regulations 2015];
 - The Children and Young Person's Act 2008 including the Children and Young Person's Act 2008 (Relevant Care Functions) (England) Regulations 2014;
 - The Children and Families' Act 2014;
 - The Special Guardianship Regulations 2005.

Human Resources Implications

- 9.15. Human resources implications are detailed in the Creating Opportunities, Tackling Inequalities Scrutiny Report [Appendix 1], paragraphs 6.5 to 6.8. These are repeated here for ease of reference:
- 9.16. In summary, all Human Resources considerations have been taken into account during the planning of the tender, the tender itself, and will be incorporated into the mobilisation and transfer planning.
- 9.17. Employees engaged in the work transferring will have their terms and conditions of employment protected under TUPE regulations. The recommended bidder has also confirmed their commitment to providing continued access to the Local Government Pension Scheme [LGPS] via Admitted Body Status to the LGPS.
- 9.18. Ongoing informal consultation has been undertaken with affected staff of the Council and those from our strategic partner, SERCO, also affected by the transfer, as well as with the trades unions. Affected staff have had the continuing opportunity to discuss any concerns and confirm their understanding through the programme of regular briefings. Other Council staff have also been kept informed through regular communications.
- 9.19. Assuming Cabinet accepts the recommendation to award the contract, the Council's Human Resources service will liaise with the Human Resources service within TACT to co-ordinate joint formal consultation with affected staff and trades unions, and will ensure that all necessary due diligence is completed.

10. BACKGROUND DOCUMENTS

- 10.1 None.

11. APPENDICES

- 11.1 Appendix 1: Report to Scrutiny Committee, 12 September 2016: Proposal to develop a Permanency Service in Peterborough: Recommendation to award contract
- 11.2 Appendix 2: Permanency Service: Final Service Specification