
Decision Maker: PORTFOLIO HOLDER
WITH PRE-DECISION SCRUTINY FROM CHILDREN, EDUCATION AND
FAMILIES POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Date: 10 March 2021

Decision Type: Non-Urgent Key Decision

Title: PROCEEDING TO PROCUREMENT (GATEWAY 0) FAMILY DRUG AND
ALCOHOL COURT SERVICE (FDAC)

Contact Officer: Bola Bakare, Integrated Strategic Commissioner
Tel: 020 8461 7614 E-mail: bola.bakare@bromley.gov.uk

Chief Officer: Janet Bailey, Director Children's Social Care

Ward: All

1. REASON FOR REPORT

- 1.1 The London Borough of Bromley has been a member of the Pan London Family Drug and Alcohol Court Service (FDAC) consortium since January 2018. The consortium is made up of 9 London Boroughs; the London Boroughs of Wandsworth, Camden, Bromley, Croydon, Sutton, Lambeth, Southwark and the Royal Boroughs of Kingston and Richmond. The service is available to all participating boroughs with the London Borough of Wandsworth acting as the lead commissioning borough
- 1.2 The current contract arrangements will be coming to an end on 31 December 2021 however due to the pandemic and other delays in decisions made by member organisations, this report seeks authorisation from the Portfolio Holder for Children, Education and Families to:
 - a) proceed to procurement to re-tender the FDAC service with LB Wandsworth as the lead commissioner, for a two year period with an option to extend for a further 1 + 1 years, following the agreement of the Assistant Director of Governance, the Director of Finance, and the Director of Corporate Services.
 - b) extend the existing contract by up to 1 year, to mitigate against the adverse impact on the current contract, if member authorities have delayed internal approval which results in a delay to the commencement of the tender.
- 1.3 The proposed cost of the new contracts following the tender will be £165k per annum, with a whole life value of £660k.
- 1.4 The value of the extension (should it be required) will be £165k full year effect, or pro rata depending on the additional time that might be required to support the preparation for the new tender.
- 1.5 The maximum cost of the proposal (tender plus the extension) is £825k.

2. RECOMMENDATION(S)

- 2.1 The Portfolio Holder for Children, Education and Families is recommended to approve the proposal for LB Bromley to remain in the Pan-London Consortium and proceed to tender the Family Drug and Alcohol Court (FDAC) service, with the LB Wandsworth as the procurement lead authority. The proposed duration for the new arrangement is for a period of two years (with the option to extend the arrangement for up to a further two years) at an estimated annual contract value of £165k (whole life value £660k)
- 2.2 The Portfolio Holder for Children, Education and Families is recommended to approve an extension to the contract from 1 January 2022, should it be required for a period of up to 12 months, at an estimated annual value of £165k .

Impact on Vulnerable Adults and Children

1. Summary of Impact: Decreasing the risk of children being taken into care through the provision of a service that tackles the root cause of family breakdowns brought about by substance misuse

Corporate Policy

1. Policy Status: Existing policy
 2. BBB Priority: Children and Young People.
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Financial

1. Cost of proposal: £165k per annum
 2. Ongoing costs: £165k per annum for a period of 2 years with an option to extend for up to a further two years (whole life value £660k)
 3. Budget head/performance centre: 808160 3135 00000
 4. Total current budget for this head: ££165k
 5. Source of funding: Core funding
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Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory requirement. Education Act 2002 (Section 175), Children's Act 2004 (Section 11), duty to safeguard and promote the welfare of children.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Approximately 10 packages of care per year will be referred to the FDAC process with each package consisting of Vulnerable families of varying sizes.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The London Borough of Bromley has been a member of the Pan London FDAC consortium since January 2018. The service is provided by the Tavistock and Portman NHS Trust. The consortium is made up of nine local authorities, (which initially included LB Merton, who have since been replaced by LB Southwark). The Local Authorities forming the current consortium are the London Boroughs of Southwark, Wandsworth, Camden, Bromley, Croydon, Lambeth, Sutton and the RB of Kingston and Richmond), with LB Wandsworth now acting as the lead borough.
- 3.2 This collaboration means that families in the nine boroughs have the option of being referred to the Central London Family Court, Croydon Family Court, and West London Family Court so their case can proceed through FDAC.
- 3.3 The FDAC is a specialist problem-solving court, hearing care proceedings for children put at risk by parental substance misuse and providing models of intervention within the context of the court proceedings. A specialist multi-disciplinary team of practitioners works with the court, the families and their children to support treatment regimens where parents have an alcohol and/or drug dependency.
- 3.4 The service is a fully evaluated model offering improved outcomes for children and families, who are being put at risk due to parental substance misuse. The service focuses on families whom the responsible local authority is working with, within a pre-care proceedings framework, and those for whom care proceedings are about to be filed. The model is endorsed by senior Family Court Judges.
- 3.5 The FDAC model has been developed to also address the number of repeat cases where children were being removed from the same parents due to ongoing drugs and alcohol misuse, as well dealing with aspects of domestic violence and mental health in addition to parental substance misuse. The FDAC multi-disciplinary team provide a “one stop” solution to undertake many of the assessments outlined below whilst offering intervention services.

Examples of independent expert assessments that are covered in the FDAC package that would otherwise be commissioned separately include:

- Independent social workers undertaking parenting assessments;
 - Adult psychiatric assessments of parents (both mental health and substance abuse);
 - Psychological assessments (cognitive assessments and behavioural matters);
 - Child and family psychological assessments;
 - Child and family psychiatric assessments.
- 3.6 Use of the FDAC assessment service at an early stage, especially where parents have had children removed previously, or who have a significant history of substance misuse, can reduce or avoid expensive residential assessment options, and reduce the delay in settling the future for these children.
- The team also carry out drug and alcohol testing, and in cases in proceedings they prepare regular short reports on the parents’ progress and they attend court

reviews. Intervention Planning review meetings are held at regular intervals, to agree any changes to the plan and decide on future action.

- There is regular communication between the team and the judge in relation to cases in court, and between the team and relevant Adult and Children's Services as well as with housing services and domestic abuse services and with legal representatives.
- Integral to the FDAC approach is an assumption that adults referred to the service will need help from a variety of services, for example from substance misuse services, housing services and services providing support in relation to domestic violence. The team will work with parents and other agencies to ensure they can get the help they need to maximise their chances of making the changes in order to retain the care of their child

3.7 The work that has been carried out in the UK over the last eight years has been noted and commended by: -

- The president of the Family Division – Sir James Munby who publicly and positively supported the model in the 7th published view from his chambers, stating that “the pioneering FDAC model is a successful attempt to improve both the process and outcomes for those involved in care proceedings”.
- The Family Justice Review stated that “Both local authorities and courts more generally could learn from FDAC’s focussed approach to proceedings, including its engagement with all the parties and its use of an integrated team to provide high quality assessments to court and therapeutic support for parents”
- The Department for Education have since commissioned the Tavistock & Portman to develop the model nationally as part of their Supporting Families Project.

4. SUMMARY OF THE BUSINESS CASE

- i) The proposal is for Bromley to continue as a member of the Pan London FDAC consortium led by the London borough of Wandsworth for the provision of FDAC services, purchasing ten FDAC packages a year.
- ii) The procurement exercise will be led by LB Wandsworth in agreement with the consortium members.
- iii) This proposal will cost LB Bromley £165k per annum with a potential whole life value of £660k.
- iv) Should there be delays to the commencement of the procurement by any of the local authority members, continuity of care will be provided via an Extension Variation to the existing contract (up to 1 year).

4.1 SERVICE PROFILE/DATA ANALYSIS

4.1.1 Since 2018, LB Bromley has utilised all its annual allocations for the FDAC service and is looking to achieve the same for the final year (2021) of the contract.

4.1.2 Even though COVID- 19 has impacted on service delivery in the first quarter of 2020 things have since picked up. Performance and quality of the service has been good, over the life of the contract. The provider has worked well with all members of the consortium, providing detailed quarterly monitoring information whilst also attending group and individual operational/commissioning meetings, thus building a strong relationship base.

4.1.3 Data is available for the last five quarters, from January 2019 to December 2020:;

- In 2018 the service worked with eleven Bromley families consisting of fifteen children, the final outcome for ten of these children was to remain or reunify with family; with only two going into placement; one case was withdrawn.
- In 2019 there were 16 children from 10 Bromley families. Of the completed cases, the outcome was for 10 to remain or reunify 1 went into placement.
- in 2020 all 10 packages have been utilised, there are no outcomes recorded on these yet

4.1.4 Current costs for case management vary and it is difficult to obtain an average cost of the range of assessments that would need to be commissioned at any one time.

Below are some care management examples of how much services can cost outside of FDAC, where the main issues negatively impacting on the children and young people were identified as chronic substance misuse, mental ill-health and domestic violence.

- Case 1 – Residential parenting assessment and costs of drug screening came to £47,702. This case is ongoing and has exceeded the 26-week court timetable;
- Case 2 – Community based parenting assessments, psychiatric assessment and costs of drug screening came to £18,629. This case exceeded the 26-week court timetable for the children;
- Case 3 – Community based parenting assessments, psychiatric assessments, risk assessments and drug screening came to £18,098.
- Case 4– Community based multi-disciplinary assessment and drug screening came to £19,230.

4.1.5 The cost of these cases is substantially higher than the proposed unit cost of an FDAC package (£16,500) These cases illustrate the costs of assessments only where there was no element of treatment provided The added value of being in the Pan London FDAC partnership is that the provider will also provide substance misuse treatment/parenting support, psychology and psychiatrist assessments, and child play therapy during the assessment period and are included in the cost.

4.1.6 The overall long-term positive impact of this service would be the money saved by the decrease in the number of children taken into care as a result of their parent's substance misuse. Short term would be the individual amounts saved on numerous assessments, court costs and additional substance misuse treatment costs that would otherwise be incurred non FDAC cases. It also provides continuity for the children and families involved.

4.2 OPTIONS APPRAISAL

4.2.1 Option 1– Remain in the Consortium and re-tender the service

FDAC has proved to be a valued service for LB Bromley by offering both quality and value for money as detailed in 4.1.4 above.

Benefits

- There is an established relationship within the consortium.
- The FDAC has performed well over the life of the contract and has offered value for money as identified in paragraph 4.1.4 of this report
- Would offer continuity of service.
- Continued peer support from the other consortium members
- Shared risk

Disadvantages

- Dependency on provider, lack of competition
- Financial - as costs of the service could rise significantly if consortium members drop out and economies of scale decrease
- Differing and changing priorities of the members

4.2.2 Option 2 – Leave the Consortium at the end of the contract period and retender a standalone service

This would involve Bromley commencing a tendering exercise for a service that market testing has shown few providers able to offer what is currently offered as a package.

Benefits

- Bromley would have greater control over procurement and contract management
- Development of a bespoke service

Disadvantages

- Collective bargaining power would be lost
- Economies of scale gains realised as being part of a consortium would be lost
- Tendering can prove very expensive and would unlikely result in a better deal.
- Would need to develop individual links and access to court judges.
- The previous tender has already shown that there are very few providers able offer the FDAC model, at the last tender there were only 2 bids, for the service, and the unsuccessful bid was unable to offer all the additional benefits such as established relationships with the London courts.

4.2.3 Option 3 – Do nothing and leave consortium at end of contract

This would involve Social Workers continuing to carry out assessments and care proceedings in the normal way for potential FDAC cases. This would involve the purchasing of individual professional assessments at a high cost with the likelihood of little positive outcomes at the end.

Benefits

- Bromley would have greater control over procurement and contract management

Disadvantages

- This could prove very costly as the cost of an FDAC package is £16,500, whilst the average cost of a multidisciplinary community-based assessment can be estimated at around £18,500, whilst the cost of a residential parenting assessment can be in excess of £47K.
- The LA will need to access and pay for additional substance misuse treatments
- External Peer support will be reduced

4.3 PREFERRED OPTION

4.3.1 Option 1 as in section 4.21

4.4 MARKET CONSIDERATIONS

- 4.4.1 FDAC is a problem-solving court approach to improving outcomes for children involved in care proceedings. It offers an alternative and more successful way of supporting parents to overcome the substance misuse, mental health and domestic abuse problems that have impacted on their ability as parents to safeguard their children against risk of serious harm. It also offers parents optimism about recovery and change, combined with a realistic understanding of the immense challenge they face.
- 4.4.2 The FDAC service is quite unique regarding the package offered, it is a specialist problem-solving court, hearing care proceedings for children put at risk by parental substance misuse and providing models of intervention within the context of the court proceedings. A specialist multi-disciplinary team of practitioners works with the court to support treatment regimens where parents have an alcohol and/or drug dependency. The team also works with the children affected offering various therapeutic inputs.
- 4.4.3 During the original tender in 2017, only 2 providers met the minimum requirements to be put through to tender, this indicates that there is limited market competition. This has been mainly due to the court aspect of the service in that the service work across 4 London courts.
- 4.4.4 FDAC has already formed the relationships with the judges of these courts, a relationship that has been built over time

5. STAKEHOLDER ENGAGEMENT

- 5.1 The Assistant Director for Children's Social Care and Head of Service for Safeguarding and Care Planning and Court Team has had regular involvement in the development and monitoring of this service and is in favour of the service proceeding to procurement.
- 5.2 Feedback from Bromley Legal (Social Care) "It is notable that in the experience of the FDAC lawyers it is unlikely that without the specialist intervention of FDAC that these cases would have had a successful rehabilitation home particularly for those parents who had longstanding substance misuse issues (amongst their other issues) Feedback from other consortium members has also been very positive.

- 5.3 The service is provided to a small number of families, with a very high level of need. Feedback from adults participating in the service is gathered regularly and reviewed quarterly some of the feedback provided by service users includes the following: -

“Feeling like I wasn’t just a case that I’m going to be supported by them.”

“That they give you time.”

“Ability to offload any thoughts of stress and talk to understanding people.”

“My keyworker sessions are very helpful.”

6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

- 6.1 The London Borough of Wandsworth will lead the procurement exercise in cooperation with the other consortium members, for this the following procurement timetable is proposed:

Agreement from all Consortium members and various sign offs.	June 2021
Documents made available Agree spec, contract, method statement etc	July 2021
Tender out	July 2021
Tender Closing date	August 2021
Evaluation of submitted Tenders	Week commencing Aug/ Sept 2021
Anticipated award date	October 2021
Notify Tenderers	October 2021
Contract sign off all members	October /November
Mobilisation	November /December 2021
Contract Commencement date	1 January 2021

Estimated Contract Value – £165k per annum, £660k over the life of the contract.

- 6.2 **Other Associated Costs** – £165k for the period of 1 January 2022 – December 2022 - the cost of the extension/variation as set out in Section 1.2b, if the contract requires an extension due to possible delays to the above proposed timetable
- 6.3 **Proposed Contract Period** – the authorisation period for this proposal is 1 January 2022 – 31 December 2023 with the option to extend for up to two years.

7. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 7.1 The Council is required to provide these services in accordance with the statutory guidance and legislation and because there is an allocated budget financial risk is low.
- 7.2 There is the potential for risk if children and young people and their families do not have timely access to support services that can make the difference between a child staying with their family and being taken into care. If a child or young person is deemed to meet the eligibility criteria for social care services, the council is obliged to fulfil its statutory duty. Joining this consortium to provide this service mitigates this risk.

- 7.3 An Equalities Impact Assessment has been completed as part of the procurement strategy considerations. Equality monitoring will also form part of the contract monitoring process.
- 7.4 Care proceedings are used to protect the most vulnerable children within our communities and the Local Authority uses them to ensure that children can achieve the best outcomes despite the breakdown of their family unit.
- 7.5 People misusing substances have complex physical and mental health needs. The FDAC approach should encourage and support earlier parental engagement with treatment services where there are concerns over parenting, and over time, lead to a reduction in the number of repeat care proceedings across all communities.
- 7.6 Improved outcomes from those impacted by substance misuse will have a positive impact on local communities as a result of the improvement of family life, for children within the affected families. National evaluations of the service show that FDAC intervention evidences a positive impact on families who go through the process, by enabling parents to make a positive and lasting changes by becoming better parents allowing children to achieve better outcomes.
- 7.7 Keeping vulnerable families together where safe and avoiding family breakdown is expected to have positive implications for children and young people. It is likely to allow for better educational and health outcome for children and young people. In addition to significantly contributing to community safety by reducing the potential for young people and their families to become involved in anti-social behaviour and or criminal activity.

8. POLICY CONSIDERATIONS

- 8.1 **Transforming Bromley Road map (2019 – 23) – Children’s Services and Education Work stream** - Ensure that the delivery of children’s services and education is sustainable and helps our children and young people at the earliest point of need.
- 8.2 **Bromley Children and Young People’s Plan 2018 -21** Key priorities of Early help and to deliver improved outcomes for our children and young people.

9. IT AND GDPR CONSIDERATIONS

- 9.1 N/A

10. PROCUREMENT RULES

- 10.1 This report seeks authorisation to proceed to jointly commission a contract for the provision of Family Drug and Alcohol Court (FDAC) services commencing on 01/01/2022 and expiring on 31/12/2023 with an option to extend for a further 1 + 1 years (four years in total), under the Pan London FDAC consortium procurement led

by the London Borough of Wandsworth acting as the lead commissioning borough. The anticipated total value of the contribution of the Council is £660k over the whole life of the contract. A high-level timetable is shown at 6.1 above.

- 10.2 The report also seeks authority to extend the existing contract by up to 1 year from 01/01/2022 at a per annum cost of £165k (pro-rata) in the event members of the Consortium at 1.1 delay the commencement of the tender.
- 10.3 Health, social and related services are covered by Schedule 3 of the Public Contracts Regulations 2015, and thus any tender would be subject to the application of the "Light Touch" regime (LTR) under those regulations. This procurement falls below the current threshold of £663,540 and can benefit from the flexibilities of the Light Touch regime. However, it is expected the lead Council in the tender will comply with the requirement to advertise contracts with values above £25k in both Contracts Finder and Find a Tender Service (FTS). The procurement must also comply with the principles of transparency and equal treatment.
- 10.4 The Council's specific requirements for authorising proceeding to procurement are covered in Rules 1 and 5 of the Contract Procedure Rules with the need to obtain the formal Agreement of the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance for a procurement of this value. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 10.5 In accordance with CPR 3.5.3 the officer must consult with the Director of Finance and the Director of Corporate Services before entering any collaborative procurement arrangements, joint contracts, or shared service arrangements with another Public Body. The Head of Procurement must also be consulted regarding entering joint contracts with other Authorities.
- 10.6 It is expected the lead contractor will publish the award notice in both Contracts Finder and Find a Tender Service (FTS) as the contract value is over £25k.
- 10.7 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

11. FINANCIAL CONSIDERATIONS

- 11.1 The budget for the service is estimated at £165k per annum for each year.
- 11.2 There is sufficient budget within the service to contain this contract.
- 11.2 The contract is based on the premise of 10 packages a year. The expenditure can fluctuate due to the number and timing of referrals during the year.
- 11.3 The proposal offers value for money as the cost of other referrals can be as much as £47k a referral in comparison to £16.5k under this arrangement.

13. LEGAL CONSIDERATIONS

- 13.1 This report seeks to approve the proposal to proceed to procurement to retender and jointly commission the Family Drug and Alcohol Court (FDAC) Pan London Service with the London Borough of Wandsworth as the lead Authority, for a two year period with the option to extend for a further 1 +1 years. The current Contract comes to an end on 31.12.21. Approval

is also sought to extend the current Contract by up one year to mitigate against the adverse impact on the current Contract, if member authorities have delayed internal approval which results in the delay to the commencement of the tender. The proposed contract period commences on 01.01.22 and is due to expire on 31.12.25. The proposed cost of the extension is £165k per annum.

13.2 The overall whole life cost of the proposed contract (i.e. £660k) falls as a below-the light touch Regime for services outlined in Schedule 3 in the Public Contract Regulations 2015 (PCR). However due to the aggregation of value of all local authorities within the Consortium, it will be necessary to comply with the light touch regime procurement rules.

13.3 As the Contracts hold a threshold value over 25k, a Contract award notice (regulation 50 of the PCR), will in due course need to be published via Contracts Finder (by the lead Contractor) within 30 days of awarding the Contracts. Advertisement via the Find a Tender Service (FTS).

13.4 Due to the aggregate value of the Contracts across the Consortium being above the threshold of £663,540, such a procurement is governed by the Regulations.

13.5 Due to the value of the current contract and the value the extension, it would appear that such a modification can be made in compliance with Regulation 72 (1) which allows Contracts to be modified without a new procurement procedure where the requirement for modification has been brought about by circumstances which a Council could not have foreseen and that the modification does not alter the overall nature of the Contract and that any increase in price does not exceed 50% of the value of the original Contract.

13.6 Under the Council's Contract Procedure Rules (CPR), the Councils requirement for authorisation of an extension to a Contract, must be made in accordance to CPR 23.7 and 13.1. Under 13.1 of the CPR and guidance, the decision to approve the extension, must be made by the Portfolio Holder for Children, Education and Families in agreement with the Chief Officer, the Budget Holder, Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance.

13.7 Similarly with regard to the Council's specific requirements for authorising proceeding to procurement this is covered in Rules 1 and 5 of the CPR's which must be made by Portfolio Holder for Children, Education and Families with the need to obtain the formal agreement of the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance for a procurement of this value.

13.8 In accordance with CPR 2.1.2, all Officers must take all necessary professional advice.

Non-Applicable Sections:	Personnel Considerations
Background Documents: (Access via Contact Officer)	