

Decision Maker: Executive
with pre-decision scrutiny from the Children, Education and Families
Policy Development & Scrutiny Committee and the Executive Resources
and Contracts Policy Development and Scrutiny Committee on 8th July
2024

Date: 10 July 2024

Decision Type: Non-Urgent Executive Key

Title: MEETING THE NEEDS OF CHILDREN IN CARE: MARKET DEVELOPMENT
OF RESIDENTIAL PROVISION

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Chief Officer: Richard Baldwin - Director of Children, Education and Families

Ward: All

1. REASON FOR REPORT

- 1.1. The rising demand and cost of quality specialist residential provision for Children in Care is leading to delays in meeting the needs of our most vulnerable young people. Rising costs are contributing to budget growth pressures in the medium to long term financial forecast. Alternative commissioning strategies are being explored to mitigate cost and growth pressures where possible. For residential provision for Children in Care, this includes exploring alternative contract arrangements (such as block contracts), seeking innovative solutions through market engagement, potential partnership arrangements and potential capital investment (including the development of Council owned provision).
- 1.2. Informal market engagement has indicated the possibility of innovative solutions for market development through partnership arrangements with providers of specialist residential care. In engaging with the market to explore solutions, the Council may seek to influence the location, nature and design of provision to meet Bromley's particular needs and to enter into arrangements that secure the return of any required investment, manage risk to the Council with necessary securities in place and to ensure access to provision to help manage demand. The nature and feasibility of any business case for any proposed solution will need to be developed through formal market testing.
- 1.3. This report seeks Executive approval to proceed with formal market testing with the provider market, through a compliant procurement process, to explore and develop detailed proposals

and business case for innovative solutions, including partnership arrangements and investment solutions, for specialist children's residential care for consideration by Executive in due course.

2. RECOMMENDATION(S)

- 2.1. The Children, Education & Families Policy Development & Scrutiny Committee are asked to note and comment on the report.
 - 2.2. The Executive are recommended to approve proceeding to formal market testing, via a compliant procurement route as set out in Section 4.4, to develop a detailed business case for innovative solutions for the provision of specialist children's residential provision, including partnership arrangements and investment solutions.
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Impact on Vulnerable Adults and Children

1. Summary of Impact: Securing a provision closer to or in Bromley will mean that children and young people who come into care, and are placed in a setting closer to home will:
 - maintain links with their local community, family, and friends where this is in their best interest.
 - allow children's social care to maximise the potential, in the longer term, for repatriation with a child's own family or a step down to a suitable foster placement.
 - allow children and young people to benefit from the continuity of services particularly in relation to health, education and extra mural activities without the local authority having to commission these in the location of their placements.
 - The proximity to local services and social work support could reduce the risk of placement fragility and multiple placements moves.

A combination of these factors will positively impact the longer-term outcomes for children in care and their families.

Transformation Policy

1. Policy Status: Not Applicable Further Details
2. Making Bromley Even Better Priority
 - (1) For children and young People to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
 - (5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.

Financial

1. Cost of proposal: Estimated Cost: To be determined through market testing.
2. Ongoing costs: Non-Recurring Cost: To be determined through market testing.
3. Budget head/performance centre: Childrens placements
4. Total current budget for this head: £16.7m
5. Source of funding: Core

Personnel

1. Number of staff (current and additional): not applicable
2. If from existing staff resources, number of staff hours:

Legal

1. Legal Requirement: Statutory Requirement
2. Call-in: Applicable:

Procurement

1. Summary of Procurement Implications: The proposal will require a compliant procurement process for market testing as detailed in the report.
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Property

1. Summary of Property Implications: To be determined through market testing.
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Reduction in carbon emissions owing to reduced travel times to placements. Investing in the appropriate care and support for children and young people in care will inevitably improve longer term outcomes for children in care who will grow up to be future adult residents in Bromley.
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Impact on the Local Economy

1. Summary of Local Economy Implications: Not applicable
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Impact on Health and Wellbeing

1. Summary of Health and Well Being Implications: Continued access to local health and well-being services for children in care.
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Customer Impact

1. Estimated number of users or customers (current and projected):
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1. The most recent Department for Education's (DfE) annual looked-after children's statistics, published in November 2023, confirms that, nationally, the number of children in care has grown for the 15th consecutive year. These increases continue to place considerable pressure on Local Authorities to find suitable foster placements and residential care settings for vulnerable children and young people, resulting in a highly competitive market with soaring costs against a backdrop of placement sufficiency not growing at the rate as required.
- 3.2. The DfE report also notes that although there was a 9% increase in the number of children's homes from the previous year (March 2022), there was only a 7% increase in the overall number of places. The number of placements available has also been negatively impacted by the 7% decrease in residential special needs schools and the 50% decrease in secure training centres. Whilst there has been an increase in the number of residential homes, as of 31 March 2023, the North West had the most children's homes (746) while London had the fewest settings (164), meaning that children from Bromley are often placed a considerable distance away from home.
- 3.3. The national picture around foster care recruitment and retention also continues to be a challenge post-Covid, with a 5% decrease in local authority foster care households nationally and no changes in the Independent Fostering Agency market indicating that many carers are leaving the sector. The cumulative impact of the availability and location of all types of placements for children in care has created a system where demand significantly exceeds availability of provisions, leaving local authorities competing for limited placements and most importantly leaving children and young people in vulnerable situations for far too long, while placements are sought.
- 3.4. Securing suitable placements for children and young people is currently the most challenging it has ever been. Given the level of need and demand, it is a seller's market, and local authorities are often left with limited choice and no scope for negotiation. Costs continue to spiral, and providers select which children they will offer placements to. This approach has left local authorities holding a higher level of risk in the community and paying excessively high rates for placements. Over the last 12 months there have been a significant number of occasions where social work teams have been frustrated in their efforts to initiate Care Proceedings to safeguard children, due to the absence of a placement. Similarly, social workers have been unable to move children from poor quality placements due to the absence of an alternative. The local authority often has very little choice in the type, cost and quality of the placements, as extensive placements searches frequently yield only one option.
- 3.5. In Bromley our care population has been relatively stable. In 2023/24 we saw a 2% increase in our children in care population compared to the 2022/23. The overall Bromley picture in relation to the number of children in care is better than the national outlook with our rate per 10,000 continuing to hold well below the national (and statistical neighbour) average. We are however significantly impacted by the national demand around placement options and cost. We have seen a growth in the need for residential placements due to shortage of foster carers as well as due to the increasing complexity and presenting risks and needs for children and young people.
- 3.6. Over the last 5 years the number of Bromley children placed in a residential home has increased from 8% in 2019/20 to 12% of our care population in 2023/24. We have also seen a significant increase in the number of children in care subject to DOLS (Deprivation of Liberty Safeguards) from 1 young person in 2021/22 to 16 young people in 2023/24. The increase in DOLS applications nationally (462% increase since 2017-18) is indicative of the complexity of risks young people are presenting with as well as changes in the legal practice guidance. Young people subject to DOLS often require solo placements with high staff ratios to manage the risk of harm

to self or others. The impact of waiting lists and secure beds in Tier 3 and Tier 4 CAMHS and the pressure to discharge children to local authority care from hospital, as well as the impact of the closure of one secure training facility means that the local authority is left to manage and secure suitable provisions for young people with complex presenting needs often resulting in the need for the local authority making an application for DOLS.

- 3.7. Analysis of our CLA data indicates that approximately 47% of children in residential care (2023/24) required specialist, therapeutic or task-based placements. In 2023/24 the costs for these placements ranged from £8,000 to £14,847 per week with these costs predicted to increase further in 2024/2025. Young people placed in these provisions present with a range of complex behaviour, mental health concerns, self-harm, substance misuse and/or high levels of trauma manifesting in violent outbursts. Identifying suitable placements for young people presenting with this level of risk and need is challenging and placements are often far from Bromley leaving young people isolated from their professional and family support networks.
- 3.8. The current landscape in relation to Children in care and placement options is very bleak and requires the local authority to take appropriate steps to source and secure suitable placements for some of our most vulnerable young people.
- 3.9. Consideration is being given to whether it would be cost effective for the Local Authority to set up a Local Authority run children's home, and this will continue to be explored. This would require identification or purchasing of a suitable property, planning permission, development of the home, registration with Ofsted, as well as the recruitment and training of staff. Benchmarking with 3 LAs who have proceeded to set up a local authority run children's home indicates that the project takes an average of 2.5 years to set up and requires an initial investment of approximately £2 - £2.5m for a 3-4 bed unit. The set-up costs do not include any staffing or running costs. Most Local Authorities have opted for setting up a standard residential unit and continue to have challenges around finding placements for their most vulnerable young people.
- 3.10. In Bromley we are already exploring alternate, cost-effective avenues to address concerns for children and young people with a lower level of need who are currently in residential units. Local knowledge and analysis of risk and need indicates that children requiring specialist placements is increasing and is likely to continue to increase in the coming years. Therefore, securing suitable placement options to meet the needs of a more vulnerable cohort of children is what is most required. One solution to be explored is the potential business case for a partnership arrangement, or alternative arrangement, with a specialist provider of residential provision who is skilled and experienced in delivering therapeutic services and experienced in running children's homes. This could mean that the Council secures the expertise needed to deliver the provision required in a shorter timeframe and with a lower risk held by the local authority, given that the full responsibility for setting up and running the home will be retained by the provider. Consideration of such an arrangement will include future proofing any resulting arrangement to allow for changes in our demographic and local need.

Summary of Business Case

- 3.11. In 2022/2023, LBB had 351 children in care, 12% of whom were placed in a residential setting.
 - The average cost of a residential placement was just under £8,000 per week compared to the average cost of a residential placement for a Bromley child in 2018/19 being £4,000.
 - 22 children placed in residential care, were in placements costing more than £8,000 per week.
 - Most children placed in higher cost placements presented with some mental health concerns, self-harm, missing episodes, violent outbursts and/or being at high risk of sexual or criminal exploitation.

- 63% of children placed in a residential setting were placed more than 20 miles away from their home address. 0% of children placed residential care were placed in Bromley, although 26% were placed in a neighbouring borough (including the Dartford area of Kent).

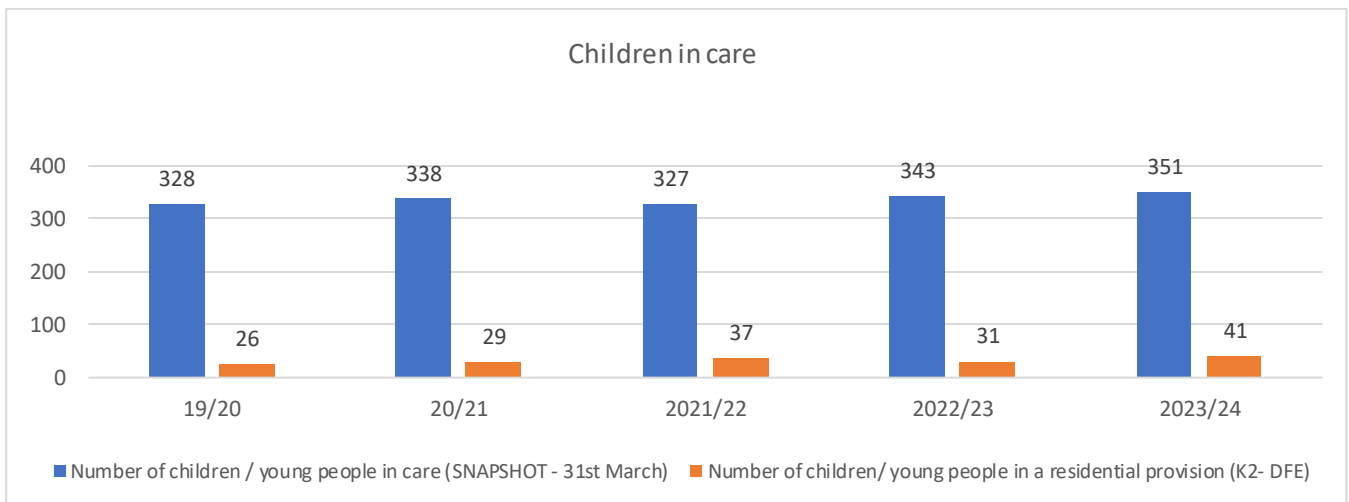
3.12. Should the Executive agree to pursue formal market engagement, the Council would engage with suitable providers to explore potential solutions, including partnership arrangements, to address the needs prevalent in the cohort of children who are placed in higher cost placements.

The local authority would wish to engage with providers who can work within the following parameters:

- The provider must be able to deliver specialist therapeutic residential care for young people between the ages of 10-18 (or slightly under 10 years old in exceptional circumstances)
- The interested party must be seeking to develop residential provision in Bromley or within an immediate neighbouring/ bordering local authority to Bromley.
- The Local Authority will be seeking solutions with an expectation of co-designing the provision in line with the needs of the local authority and retaining exclusive use of any resulting provision for a set term at preferential rates.
- The interested party must have at least 5 years of experience in delivering care for young people and / or working with complex, high risk and vulnerable young people.
- The provider will have or develop residential provision which they will run independently of the local authority. Staffing and regulatory obligations will remain the responsibility of the provider.

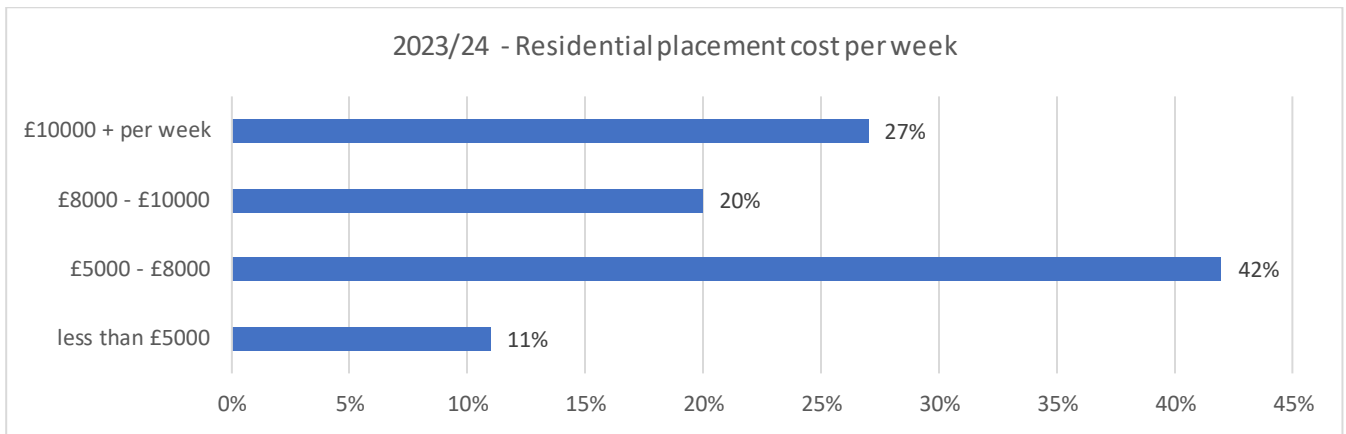
Service Profile / Data Analysis / Specification

3.13. Over the past 5 years we have seen an increase in the number of children placed in residential care as noted in the table below.



3.14. In 2023/24:

- 55 new residential placements were procured for 40 children. (The 41st child noted above had a placement procured prior to the beginning 23/24).
- The average weekly placement cost for a residential provision was £8,000 per week. Of the 55 placements procured the lowest cost (per week) was £4,037 and the highest was £14,847.
- 47% of residential placements costed in excess of £8,000 per week.



3.15. The rising demand in the need for therapeutic residential placements is evidenced both in our assessments of children’s needs and in the analysis of our CLA data over the past 5 years.

3.16. It is anticipated that the requirements and outcomes of the solutions we are seeking to deliver a local specialist children home will:

- Reduce the overall spend on placement costs. Ideally, weekly placement costs for a therapeutic residential would reduce by a minimum of £1,500 - £2,000 per week per child (subject to market testing). Over the course of a year, this could save the local authority up to £250k, based on an occupancy of three young people.
- Having a provision which is identified for the exclusive use of Bromley, will improve care planning for children and young people ensuring the young people are provided with safe and secure placements when they are most in need.
- Children and young people will benefit from the continuity of services including education, health, and children’s social care support.
- There will be a significant reduction in staff and family travel costs and time.
- It is also envisaged that this proposal will complement two other projects Children’s Social care is currently working on to better meet the needs of Children in Care in Bromley, whilst reducing the spend on residential care and delivering better value for money for the council. This includes the development of a specialist in-house fostering provision (EMBRACE) which will receive children stepping down from residential care and the possible block purchasing of children’s residential beds (subject to executive approval) for less complex young people.

Options Appraisal

3.17 **Option 1 - Do Nothing:** This is not recommended. As noted in this report, the current cost of residential placements continues to place significant pressure on the local authority budget and has an impact on the local authority’s ability to safely care plan for some of our most vulnerable children. Doing nothing will result in a failure to address the current market pressures and placement requirements for children and young people. We will continue to spot purchase placements on an ad-hoc basis with very little scope to predict costs, quality, and location of placements. Since the start of 24/25 the average weekly placement costs already exceeds £8,000.

3.18 **Option 2 - Develop Bromley Owned Residential Provision:** This option is being explored and may be developed further but could prove difficult to implement at present. Consideration has been given to building (establishing) our own Children’s Home. This option may be something we wish to pursue in the longer term, however the costs and complexity of setting up a local children’s home makes this option less financially feasible than solutions based on working with the provider market. Based on benchmarking with other London authorities, this option would

require in excess of £2m investment, identification of a property, planning permission and property development, staffing and running costs and meeting all regulatory requirements. On average most councils take approximately 2 years to set up, register and staff a standard local children's home but continue to commission specialist provisions, thereby not addressing the most pressing need.

3.19 Option 3 - Formal Market Engagement to Seek Solutions, including Partnership Arrangements: The majority of children's homes nationally are run by privately owned companies (2,450 homes making up 85% of the market). 3% (95) of Children's homes are run by the voluntary sector (charities or not-for-profit organisations). Entering a partnership arrangement with the expertise of an existing provider of specialist residential provision, where the Council is able to co-design a provision specifically to meet local needs could support improved care planning for children. Should a viable business case for a solution be developed through formal market testing, the potential cost avoidance compared to current costs of provision could contribute towards meeting the targets set out in the council's medium-term financial strategy.

Preferred Option

3.20. At this time, it is recommended to pursue Option 3 to explore whether a solution for specialist residential children's provision can be developed through formal market testing.

4. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

4.1 Estimated Value of Proposed Action:

Formal market engagement will provide a detailed business case for potential solutions, including partnership and investment arrangements. The costs and volume of any subsequent arrangements, such as a block contract, are to be determined through market testing and cannot be determined at this time.

4.2 **Other Associated Costs:** not applicable

4.3 **Proposed Contract Period:** To be determined.

4.4 Procurement Strategy:

The key purpose of the procurement strategy is to:

- Determine whether there are suitable providers that meet our requirements who are interested and capable of developing a full proposal.
- To develop the full detailed business case, through a compliant procurement route, to inform a Member decision as to whether to proceed with any proposed solution and associated contract or whether to determine that the business case is not viable;
- To ensure that providers are aware, through the compliant procurement route, that any award of contract for a proposed solution is dependent upon a financially viable business case that is likely to achieve the intended outcomes.
- The market testing is intended to develop potential solutions, including partnership arrangements, supporting capital investment or other solutions. Proposed solutions, if taken forward, are likely to result in a suitable contractual relationship, such as a long-term block contract arrangement to ensure preferential access / guaranteed places at preferential rates.

As such, this is a public procurement subject to the Public Contract Regulations (2015), which sets obligations on the contracting authority in conducting the procurement process. These services fall within the “Light Touch Regime” of the regulations, which grants some additional flexibilities regarding how to conduct the procurement, but a compliant procurement process must be followed through fair and open competition. This includes, as applicable:

- To publish a formal Call for Competition, alerting potential providers to the opportunity. A Prior Information Notice (PIN) can satisfy this requirement, as it is a public notice that invites capable providers to express an interest in the contract.
- A Tender Notice if the PIN evidences sufficient interest from the market to require a full tender process
- Likewise, a Contract Award Notice will need to be published when the contract is awarded. This is a public notice that discloses the identity of the successful bidder as well as the contract value.
- The principals of transparency and equal treatment of bidders must be adhered to. In practice, this includes disclosing the conditions for participating in the process, enforcing consistent timescales/deadlines, and setting out the award procedure and evaluation criteria.
- The timescales for submitting a bid and any subsequent bids through a competitive process with negotiation are flexible but must be reasonable and proportionate.
- A 10-day standstill period after contract award is recommended but not mandatory.

A key flexibility of the Light Touch Regime is that Authorities can take into account “the specific needs of different categories of users, including disadvantaged and vulnerable groups”. For example, if the users (in this case, the residents) need the service to be delivered within or close to the London Borough of Bromley, the geographic location of the providers can be restricted.

It is recommended that a PIN is published to ascertain the market that can fulfil the criteria set out in 3.12 . If no providers respond, or if only one provider that meets the criteria responds, the Council may then be permitted to enter into a negotiated process for the development of a business case and subsequent award of contract. However, if more than one interested supplier meets the criteria, the Council is required to proceed with a formal tendering exercise with those interested and capable providers.

The timetable for conducting a negotiation with a single provider or a competitive process amongst several suppliers is comparable, as both processes essentially involve presenting our requirements to the provider(s), allowing time for them to respond, and evaluating the responses. As such, please see the indicative timetable below.

Milestone	Date	Time allocation
Executive approval to proceed	26/06/2024	
Publish PIN	27/06/2024	1 day
Publish ITT or start negotiations	02/08/2024	PIN must be open for at least 35 days
Bids received	30/08/2024	4 weeks
Evaluation complete	06/09/2024	1 week
Executive approval to award	September 2024	
Commence standstill period	September 2024	10 days
Contract commences	October 2024	

This timetable allows for an approximately ten-week procurement process, plus an additional 10-day standstill period and approval time. This recognises that, under the Public Contracts Regulations (2015), a PIN must be open for at least 35 days to be a call for competition. However, the proposed evaluation period would be accelerated as there is likely to be a limited number of providers that could bid. The evaluation criteria would use the Council's standard 60:40 price/quality ratio. The mandatory criteria in section 3.12 would also apply.

5. MARKET CONSIDERATIONS / IMPACT ON LOCAL ECONOMY

- 5.1 The market for children's residential placements is a very challenging one, particularly finding local quality placements.

6. SOCIAL VALUE, CARBON REDUCTION AND LOCAL / NATIONAL PRIORITIES

- 6.1 Consideration will be given the opportunities providers can offer to Bromley residents, including training, employment or placement opportunities for social workers, nurses or mental health professionals etc.
- 6.2 Procuring a provision closer to Bromley will reduce travel time for staff and family members to see children and young people in their placements. The reduction in travel will lower carbon emissions and align with the council's vision of Net Zero by 2027.
- 6.3 Children who grow up in care will also be future adult residents in Bromley. Providing a good start, the appropriate placements and effective therapeutic interventions will increase the likelihood of young people entering adulthood with positive prospects and positively contributing as a local resident in addition to potentially reducing the need for adult services intervention later on.

7. STAKEHOLDER ENGAGEMENT

- 7.1 Discussion have taken place with the Children's Placements Team and the Children Looked After service.
- 7.2 Should the proposal be agreed, it is envisaged that Children in care will contribute to the co-design of the provision.

8. IMPACT ASSESSMENTS (INCLUDING VULNERABLE ADULTS AND CHILDREN) AND CUSTOMER IMPACT

- 8.1 The procurement of a local Children's Home will mean that children and their families benefit from continuity of care and links to local services and support.

9. TRANSFORMATION/POLICY IMPLICATIONS

- 9.1 The Council's duties in relation to children in care are set out in Part 3 of the Children Act 1989 and the Care Planning, Placement and case Review Regulations 2010 and associated secondary legislation and guidance. Sections 22A to 22D of the Children's Act 1989 deal specifically with the Council's duties to secure accommodation for a Looked After child and provide the framework for decisions as to the type and nature of accommodation appropriate for a child's specific circumstances. The Council has a duty under s.22(C)(5) where a placement with the child's parents is not possible to secure 'the most appropriate placement available' to promote and safeguard the child's welfare. Section 22(C)(7) to (9) requires (among other

conditions) that 'in so far as is reasonably practicable' any placement must allow the child to live near his / her home and be within the local authority area. Alternative placements should only be considered where these conditions cannot be achieved or are otherwise determined not to be in the best interests of the child for safeguarding reasons.

- 9.2 Market testing, as outlined above, is in line with the Corporate Strategy set out in Making Bromley Even Better 2021-2031 and Transforming Bromley 2024 -2028 specifically in relation to:

Corporate Ambition 1: For children and young people to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.

Corporate Ambition 5: To manage our resources well individually and collectively, providing efficient services and excellent value for money for Bromley residents.

10. IT AND GDPR CONSIDERATIONS

- 10.1 Not applicable at this stage.

11. STRATEGIC PROPERTY CONSIDERATIONS

- 11.1 Not applicable at this stage.

12. PROCUREMENT CONSIDERATIONS

- 12.1 This report seeks to proceed to formal market testing, via a compliant procurement process, to develop solutions for specialist children's residential provision, with the details, costs and nature of any solution to be developed through the market testing process.
- 12.2 This is an above threshold contract, covered by Schedule 3 of the Public Contracts Regulations 2015. A Light Touch Procedure process will be used and a timetable is included at Section 4.4 above.
- 12.3 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 approval from the Executive, with agreement of the Chief Officer, Assistant Director Governance & Contracts, the Director of Corporate Services, Director of Finance and the Portfolio Holder for a procurement of this value. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 12.4 In compliance with the Council's Contract Procedure Rules (Rule 3.6.1), this procurement must be carried out using the Council's e-procurement system.
- 12.5 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.

13. FINANCIAL CONSIDERATIONS

- 13.1 There are no financial considerations at this stage as engagement with the market has not yet commenced.
- 13.2 However, it is envisaged that any proposal will make financial savings based on current spot purchase costs. Any proposal will be worked through and reported back to the Executive for approval in due course.

14. PERSONNEL CONSIDERATIONS

- 14.1 Not applicable.

15. LEGAL CONSIDERATIONS

- 15.1 This report requests Members to proceed to formal market testing, via a compliant procurement route to develop a detailed business case for innovative solutions for the provision of specialist children’s residential provision, including partnership arrangements and investment solutions.
- 15.2 As is further detailed in this report, the Council has a statutory duty in accordance with section 22 of the Children’s Act 1989 to secure accommodation for a looked after child and safeguard and promote the child’s welfare.
- 15.3 The proposed residential care services are services included under Schedule 3 of the Public Contract Regulations 2015 (the Regulations). As the procurement will be above the financial threshold of £ £663,540, it is subject to the Light Touch Regime and is governed by Section 7 of those Regulations.
- 15.4 In accordance with the Regulations, the Council is permitted to conduct market consultation and seek advice from experts or market participants providing any advice used in the planning and conduct of a procurement procedure does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.

16. IMPACT ON HEALTH AND WELLBING

- 16.1 Should the local authority manage to secure a provider local to Bromley, in addition to the therapeutic provisions provider at the unit, children will benefit from ongoing support from the CLA nurse, local CAMHS services, THRIVE, Active Involvement service and any other local health and wellbeing services.

17. WARD COUNCILLOR VIEWS

- 17.1 Not applicable.

Non-Applicable Headings:	IT AND GDPR CONSIDERATIONS STRATEGIC PROPERTY CONSIDERATIONS PERSONNEL CONSIDERATIONS WARD COUNCILLOR VIEWS
Background Documents: (Access via Contact Officer)	[Title of document and date]