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| 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: | 10th July 2024 | | |
| Decision Type: | Non-Urgent | Executive | Key |
| Title: | PROCEEDING TO TENDER FOR A BLOCK PURCHASING CONTRACT FOR CHILDREN’S RESIDENTIAL (BEDS) PLACEMENTS | | |
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| Chief Officer: | Richard Baldwin - Director of Children, Education and Families | | |
| Ward: | All | | |

1. REASON FOR REPORT

- 1.1 To seek Executive approval to carry out a full competitive tender to procure a single supplier to deliver a block contract of 5 residential children’s home placements (beds) for up to 2 years with an option to purchase additional capacity of up to 5 additional beds on a first right of refusal basis at the same rates for the primary contract.
- 1.2 This proposal sets out the need for a block bed contract for residential placements for young people coming into care and what the benefits and implications would be for the London Borough of Bromley, particularly in the light of the Local Authority’s Sufficiency Duty as set out in S22 of the Children’s Act (1989).
- 1.3 A block contract contributes to the achievement of the medium-term financial savings by reducing the placement costs for children in care. This would lead to a reduction in residential spend. For example a block contract with a weekly cost of £4,600 per bed x 5, would reduce the number of placements we commission costing between £5,000 - £8,000 per week. This is likely to result in cost avoidance in the range of £104,000 - £884,000 per year assuming full occupancy of the beds.
- 1.4 An informal test of the market has been conducted and has helped form the recommendations in this paper.

2. RECOMMENDATION(S)

2.1 The Executive is recommended to approve proceeding to procurement for a block contract for residential beds for Children Looked After. The proposed block contract being for one year with the option to extend for a further year for 5 beds at an estimated cost of £4,600 per bed per week (estimated annual value of £1,196,000), with the option to purchase additional capacity through the contract of up to 5 additional beds on a first refusal basis at the same rates as the block. The estimated whole life value of this proposal is £4.8m

Impact on Vulnerable Adults and Children

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 residential setting closer to home will:

- maintain links with their local community, family and friends where this is in their best interest.
- allow children social care to maximise the potential, in the longer term, for repatriation with a child's own family or a step down to foster care.
- 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 placement 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
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 Up to £2.4m per year for a maximum of 2 years.
2. Ongoing cost : £2.4m
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
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Procurement

1. Summary of Procurement Implications:
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Property

1. Summary of Property Implications: Not Applicable
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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.
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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): Up to 10 Children in care at any given time.
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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 the number of children in care, nationally, has grown for the 15th consecutive year. These increases continue to place considerable pressure on Local Authorities to find suitable foster placements / residential care settings for vulnerable children and young people, resulting in a highly competitive market with soaring costs.
- 3.2 Securing suitable placements for children and young people is currently the most challenging it has ever been. Local Authorities often have little choice due to the national shortage of placements; providers hold all the power and Local Authorities are often left with no scope for negotiation due to limited placement options. As costs continue to increase and with demand so high, providers have the ability to select the children they offer a placement to.
- 3.3 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 for children and young people. Over the last 5 years the number of Bromley children placed in a residential setting has increased from 8% in 2019/20 to 12% of our care population in 2023/24.
- 3.4 The London Borough of Bromley (LBB) joined the Commissioning Alliance in February 2020 with one of the aims being to try to address the shortfall of quality residential placements available. However, this has limited impact on the approach of providers or created more options in the residential market.
- 3.5 In recent months it has become more challenging to identify suitable placements for young people coming into care for reasons including: -
- A decrease in current vacancies available to the London Borough of Bromley due to a highly competitive market.
 - Young people presenting with complex and challenging needs and providers not being able to offer a placement due to the risk to other young people who are already accommodated in the placement.
 - Provisions with vacancies do not have a Good or Outstanding Ofsted Inspection. Some provisions are very new, only recently Ofsted registered and have limited experience of working with complex young people.
 - Providers not willing to offer emergency / short notice placements and opt to only accept young people on a planned basis, often choosing to take young people who present with the least complexity.
 - When placements are identified, they are often a considerable distance away from Bromley, resulting in a disruption of school, healthcare (including mental health) and supportive relationships.
- 3.6 The block booking of residential placements should address some of the above challenges by increasing local capacity and having a vetted and approved provider ready to receive children directly from the LBB, including on an emergency basis.
- 3.7 The current need for local, quality residential placements is evident in the analysis of our care population, particularly with regard to the increasing need for residential placements. Soft market

research has been undertaken to test whether providers would be willing to enter into a contract with LBB.

3.8 An Expression of Interest was published on 27th February with a view to testing the market.

The following criteria had to be met:

| Mandatory Criteria | |
|--------------------|---|
| 1 | Provisions for up to 5 young people, aged between 11-15, mixed genders. |
| 2 | The provider will consider emergency / same day or short notice placements for young people who are at immediate need / require an emergency placement. |
| 3 | Providers should be able to accommodate young people for both short and longer term placements in line with their care plans |
| 4 | Additional support to be in place or can be accessed for young people with multiple / complex needs. |
| 5 | Providers will have some provision for young people subject to DOLS (Deprivation of Liberty Safeguards) |
| 6 | Placements provided as part of this contract, must be located in a children's home which is registered and has a good / outstanding OFSTED rating. |
| 7 | The London Borough of Bromley has a maximum budget of £4,600 per placement and week. The provider must be able to work within this budget. |

3.9 The notice was live for two weeks with 33 providers showing an initial interest albeit only 7 submitting the required information and documentation and 1 provider meeting the above mandatory criteria.

3.10 The interest was sufficient to proceed with a proposal to conduct a full competitive tender.

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 majority of these residential settings are out of borough

3.12. Over the last 5 years, we have seen an increasing need for residential placements due to the level of complexity, risk and need children and young people present with. Since Covid, there has been a marked increase in the number of young people presenting with mental health concerns and those who are at risk of extra-familial harm including child sexual exploitation and child criminal exploitation. For these young people, a foster placement might not be an appropriate initial placement.

3.13. In 2023/24 the average cost of a residential placement was just under £8,000 per week. The average cost of a residential placement for a Bromley child in 2018/19 was £4,000.

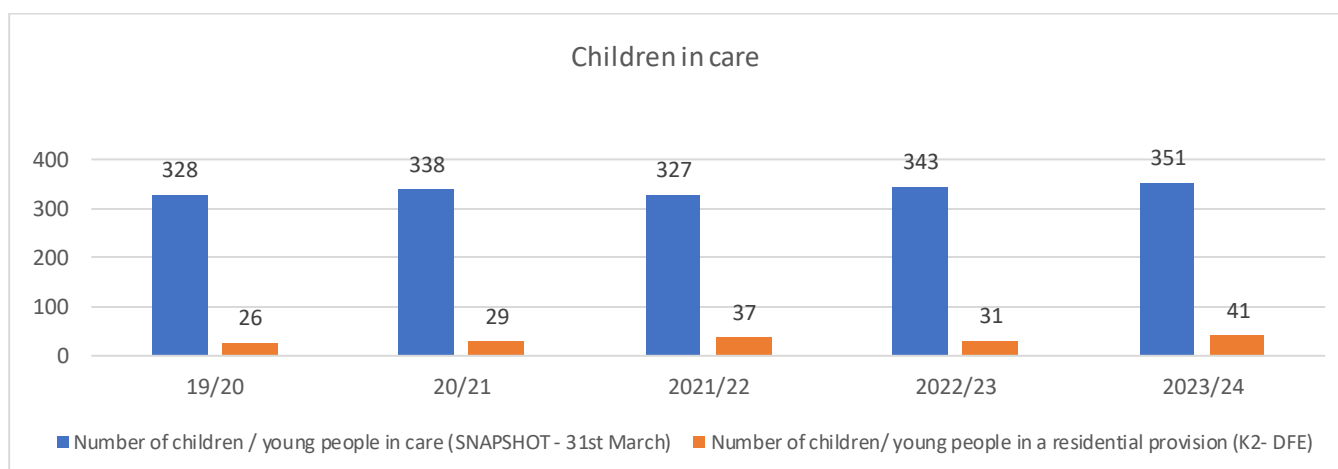
3.14. Whilst it is acknowledged that there will always be children and young people with highly complex needs, requiring specialist residential placements (which inevitably cost more), there are a number of young people placed in high cost placement due to shortages of placements and current market demand pressures. It is hoped that the proposed block contract will address the needs of the latter cohort of children.

3.15. It is anticipated that a block contract will achieve:-

- An increase in young people being placed locally.
- A reduction in residential spend. A block contract with a weekly cost of £4,600 per bed x 5, will reduce the number of placements we commission costing between £5,000 - £8,000 per week. This is likely to result in cost avoidance in the range of £104,000 - £884,000 per year.
- A reduction in travel expenses transporting the young person to the placement, appointments, and/or court as well as a reduction in staff expenses including travel and accommodation.
- A reduction in the need to commission out of borough support services such including therapeutic intervention, contact centres, tuition etc.
- Savings in placement officer and management time in trying to secure suitable and best value placements.
- More effective planning for the young person, leading to better outcomes and placement stability.
- It is also envisaged that this proposal will compliment two other proposals the council 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. This includes the development of a specialist in-house fostering provision (EMBRACE) which will receive children stepping down from residential care and the consideration of a longer-term partnership around a specialist local children's home.

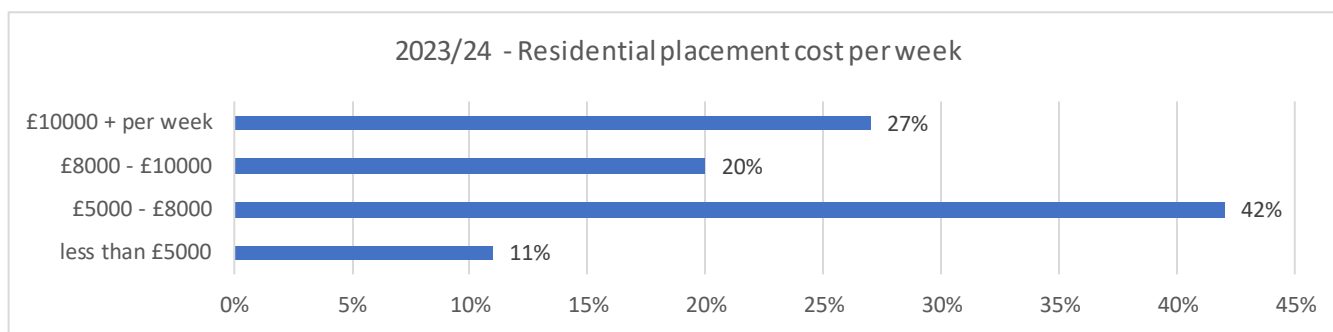
Service Profile / Data Analysis / Specification

3.16. 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.



3.17. In 2023/24 :

- 55 new residential placements were procured for 40 children (The additional child noted in the graph was placed prior to the beginning of the financial year)
- 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).
- 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.



Options Appraisal

- 3.18. **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. 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. The Children’s Placements team will continue with ‘business as usual’ and will endeavour to get best value from suppliers albeit this is currently having a limited impact.
- 3.19. **Option 2 - Build our own Children’s Home or going into a partnership with a provider.** – Consideration has been given to building our own Children’s Home. This option could prove difficult to implement at this stage. On average most councils take approximately 2 years to set up, register and staff a local children’s home. This option will therefore not address the immediate demand pressures. A longer-term option of considering a partnership arrangement is currently being explored and will be subject to a separate Gateway report.
- 3.20. **Option 3 - Proceed to tender** – testing the market via a competitive tender to see which providers will be willing to block book within a given budget is the preferred option. Should this tender be successful, the cost avoidance will contribute towards meeting the targets set out in the council’s medium-term financial strategy. This option will also support the delivery of the Local Authority’s Sufficiency Duty as set out in the Children’s Act 1989.

Preferred Option

- 3.21. The preferred option is to proceed to tender – Option 3 above.

4. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

4.1 Estimated Value of Proposed Action:

The annual value is £1,196 for the block element plus up to an optional £1,196 if the additional five beds are purchased on a first refusal basis, the two figures totalling the potential annual value of £2.4m and therefore whole life value of £4.8

4.2 Other Associated Costs: N/A

4.3 Proposed Contract Period: A twelve month contract with the option to extend for a further twelve months.

4.4 Procurement Strategy:

The value and type of services required means that this procurement is subject to the Public Contract Regulations (2015), which sets obligations on 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 the following obligations remain:

- To publish a Contract Notice, alerting potential providers to the opportunity (much like an open competition)
- 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 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, in this case it is beneficial for the services to be delivered within or close to the London Borough of Bromley, so we can restrict the geographic location of the providers.

The potential market has already been alerted to this opportunity, with 33 providers registered on the Proactis portal. Subject to approval to proceed, these suppliers can be notified of our intentions including the timetable, any changes to our requirements (such as geographical constraints) and our evaluation criteria for the Invitation to Tender (ITT) stage.

The ITT would be a formal tendering process whereby providers are asked to provide their prices and any other information that would inform the assessment of quality. There may be some crossover from the Expression of Interest stage, but the ITT would refine the requirements, include the contract terms and conditions, and request the commercial/quality information required to determine which bid is the most advantageous.

As potential providers would have already been notified of the timetable, requirements and evaluation criteria, the deadline for bids could be as little as 2 weeks from the publication of the ITT. Likewise, as the Expression of Interest stage has identified a limited market for these services, the evaluation of bids could be accelerated.

Once evaluated, the contract would be awarded with a 10-day standstill period unless there is urgency that prevents this.

Please see the indicative timetable below:

| Milestone | Date | Time allocation |
|--|----------------|------------------------|
| Executive approval to proceed | 26/06/2024 | |
| Notify providers that registered an interest | 27/06/2024 | 1 day |
| Finalise and publish ITT | 01/07/2024 | 5 days |
| Bids are received | 15/07/2024 | 2 weeks |
| Evaluation complete | 22/07/2024 | 1 week |
| Executive approval to award | August 2024 | |
| Commence standstill period | August 2024 | 10 days |
| Contract commences | September 2024 | |

This timetable allows for an approximately four-week procurement process, plus an additional 10-day standstill period and approval time. The proposed evaluation period would be accelerated as there are limited number of providers that could bid, and the evaluation criteria would be predominantly focused on their experience with the relevant types of residents and their ability to accept placements. This recognises that the OFSTED rating has already assessed the quality of the provision, in part. The evaluation criteria would use the Council's standard 60:40 price/quality ratio. The mandatory criteria in section 3.8 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.
- 5.2 An informal test of the market has already taken place by way of an Expression of Interest being circulated. 33 providers showed an interest with 7 submitting the necessary documents and 1 meeting all the required criteria.
- 5.3 The interest is sufficient to proceed to a full competitive tender.

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.

7. STAKEHOLDER ENGAGEMENT

- 7.1 Engagement has taken place with local providers to ascertain the appetite of the market to proceed with the proposal.
- 7.2 Children and young people in care have also routinely expressed through CLA (Children Looked After) reviews and discussions with their social workers that they would like to reside closer to their friends, family, and community.

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

- 8.1 The procurement of a block bed contract closer to Bromley 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 The Procurement of a block bed contract 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.

- Deliver block purchase arrangements for cost effective placements to meet anticipated demand pressures.

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

12. PROCUREMENT CONSIDERATIONS

12.1 This report seeks to proceed to the procurement for the block purchasing contract for Children's Residential placements at a maximum value of £4.8m for a two-year contract.

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 The report is requesting Executive approval to carry out a competitive tender for block beds at a residential home. Initial estimates put the cost of five beds at £4,600 per week per bed with an annual cost of £1,196k. There is also the option of procuring up to 5 additional beds, with the same provider, on a first right of refusal basis at the same cost of the primary contract. This would potentially increase the value of the contract to £2,392k per annum.
- 13.2 Estimates of placement cost savings, based on current spot purchase costs of £5,000 to £8,000 per bed per week, would generate savings of between £104k per annum to £884k per annum for a block of 5 beds. There may also be savings in terms of Education costs (if the children are able to remain at in borough schools), and additional social workers cost in terms of travel time, etc. These savings are based on 100% occupancy rates.
- 13.3 However, it should be noted that these savings are provisional and actual savings will depend on negotiations with a provider on the potential makeup of the cohort of children who would be accepted into the home. Detailed negotiations will have to take place and the outcome, together with firmer cost/savings will come back to the Executive for approval in due course.

14. PERSONNEL CONSIDERATIONS

- 14.1 Not applicable

15. LEGAL CONSIDERATIONS

- 15.1. This Report asks the Executive for approval in proceeding to procurement regarding a block Contract for residential beds for Children Looked After. The proposed block contract would be for one year with the option to extend for a further year for 5 beds with an estimated cost of £4,600 per bed per week. The estimated annual value of the cost amounts to £1,196k. There is the option to purchase additional capacity through the Contract of up to 5 additional beds on a first refusal basis at the same rates as the block. The approval of the Executive is also required to delegate the authorisation of this extension to the Chief Officer. The estimated value of the cost of the proposal amounts to £4.8 million.
- 15.2. The Council has a statutory duty in accordance with s22 of the Children's Act 1989 to secure accommodation for a looked after child and safeguard and promote the child's welfare.
- 15.3. This is a public services Contract within the meaning of the Public Contracts Regulations (PCR's) 2015 whereby the value of the Contract is above the relevant threshold and falls within the services outlined in Schedule 3 of the (PCR's) i.e the light touch regime.
- 15.4. Under the Contract Procedure Rules (CPR's), the Councils requirement for proceeding to Procurement is in accordance to CPR 1 and 5 where the approval of the Executive following agreement of the Portfolio Holder, the Chief Officer, the Assistant Director of Governance and

Contracts, the Director of Corporate Services and the Director of Finance, must be sought for a Procurement of this value.

16. IMPACT ON HEALTH AND WELLBING

16.1 Should the local authority manage to secure a provider local to Bromley, children placed in the relevant unit will benefit from ongoing support from the CLA nurse, local CAMHS services, THRIVE and any other local health and wellbeing services.

17. WARD COUNCILLOR VIEWS

17.1 Not applicable

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| 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] |