

Item No.	Classification: Open	Date: 1 March 2023	Meeting Name: Strategic Director for Children's and Adults' Services
Report title:		Gateway 1 - Secure Children's Home for London and Pan-London Commissioning Vehicle	
Ward(s) or groups affected:		All	
From:		Director of Commissioning	

RECOMMENDATIONS

1. That the Strategic Director for Children's and Adults' Services formalise prior approval for Southwark Council becoming a member of a not-for-profit company, limited by guarantee, provisionally to be known as the Pan London Vehicle (PLV) with an estimated cost of £100,000 for membership up to 31 March 2028.
2. That the Strategic Director for Children's and Adults' Services note that the PLV will develop and then oversee the running of London's secure children's home provision for a five-year period from 1 April 2023 to 31 March 2028, with a break-point after three years once the refreshed business case has been developed as well as the service pricing structure, commissioning approach, operating model, practice model and the Secure Children's Home's location is confirmed.
3. That the Strategic Director for Children's and Adults' Services note that once the provision has launched, membership will be at a fixed annual cost of £20K (subject to inflation adjustment), unless an alternative model for funding the PLV, that does not require annual subscription, is agreed by members during the development phase and collaborate with other PLV members on future joint commissioning programmes.
4. That the Strategic Director for Children's and Adults' Services formalise prior approval for the Council's in principle commitment to joint oversight, risk and or benefit sharing of the secure children's home provision, through the PLV, for a five-year period to 31 March 2028 (with three-year break point), that includes the build, service development and service commissioning phases, subject to ratification after the revision of the Secure Children's Home business case, and renewable on a ten yearly cycle thereafter, with break-point after five years.

BACKGROUND INFORMATION

Why does London need Secure Welfare Provision?

5. Children with particularly complex needs, including those who are at significant risk of causing harm to themselves or others, including risk to life, can be placed in a secure children's home (SCH) when no other type of placement would keep them safe. Children placed in SCHs are likely to have experienced a number of placements that have broken down, missed a lot of education, have unmet emotional and physical health needs and have suffered a great deal of trauma in their lives. SCHs provide a safe place where these very vulnerable children can receive the care, education and support that they need. A secure children's home is a locked environment, where their liberty is restricted and they are supported through trauma aware and psychologically informed integrated care, health and educational services.
6. Across London, a relatively small number of children require a secure welfare placement, which is very high-cost provision and despite their complex needs, these children are often placed the furthest from their home local authorities, an average distance of 192 miles, which impacts detrimentally on children who lose contact with family and the community. Additionally, the loss of local contacts and pathways in education, training and employment has a negative impact on their development post-placement.
7. Further, there is a national shortage of provision and places are often not available when referrals are made so children are then placed in less suitable but higher cost alternatives. This shortfall in provision is particularly acute in London where there is not any Secure Provision. London Councils has collated information from over the last three years to conclude that London referred 295 children to Secure Provision but only 159 received places. The majority of requests (72%) are for children from Black and Minority Ethnic groups, well in excess of the London comparable profile of 41%. The current arrangements are exacerbating poorer outcomes for this group and racial disparities.
8. Pan-London analysis pre-COVID-19 (eight-month period October 2017 to May 2018) highlighted that an average of 21 London children were in Secure Welfare provision at any one time.
9. Snapshot data taken at the end of each month, in the period between December 2021 and September 2022 shows that there is, on average, 12 of London's children in a secure welfare placement at the end of each month – this includes 3 children each month who are living in a secure welfare provision in Scotland - over 450 miles away. Although this looks like a fall in numbers compared to pre-COVID-19, in the same period, the data shows that 29 referrals were made but a placement was not offered. In a September 2022 survey, London local authorities reported that due to the known shortage of provision, they often do not make a formal

referral at all. This indicates that the national shortage of provision is impacting even more of London's children than the data suggests.

10. Of a sample of 50 'alternative to secure' placements reported in a September 2022 survey, 17 related to children with a deprivation of liberty order in place. Instead of being placed in a secure children's home, as required by the court order, these children were placed in settings that are not specifically designed to keep them safe and 10 of these placements were in unregulated settings or in provisions that are not legally registered to operate as a children's home. This means these vulnerable children would be at risk of not receiving the care, education and support that they needed.
11. Financial data provided by London local authorities in the September 22 survey shows that the average cost of a secure welfare placement has increased; the average being £7K per week in 2019, rising to £10.5K per week in 2022 and some local authorities have paid up to £25K per week for secure welfare placements in that period. In the same period, local authorities have also paid up to £30K per week for placements made as an alternative to secure.
12. The numbers of children are too small and the investment required too great for any one local authority to run its own provision. However, there is potential for a pan-London approach, which would enable the benefits to be shared whilst also jointly managing the risks of developing such provision. A pan-London approach also fits with recent reports from the Competition and Markets Authority (<https://www.gov.uk/government/publications/childrens-social-care-market-study-final-report/final-report>) and the Independent Review of Children's Social Care (<https://childrensocialcare.independent-review.uk/>) which recommended multi-authority approaches to develop greater understanding of need, engage with the market and stimulate new provision.
13. The need for provision was also highlighted through His Majesty's Chief Inspector's Annual Report to Parliament (2021/22) which stated:

"The number of secure children's homes (SCHs) has reduced from 29 in 2002 to 13 in 2022. At 31 August 2022, there were 227 registered places in SCHs..."

In March this year, around 50 children who are a significant risk to themselves or others were waiting for a place in secure accommodation every day. This had almost doubled from 25 the previous year. Additionally, at any one time around 30 children are placed in Scottish secure units by English local authorities because there is not enough provision in England. There has been an increase in the number of children experiencing mental health difficulties and children who have complex needs. A lack of mental health provision also means that some of these children are placed in SCHs because no other provision can look

after them and keep them safe. The children who cannot be placed in an SCH often end up in unregistered provision.

Local authorities try to provide for these children in other ways, such as creating solo placements in existing homes. This then reduces the number of beds available for other children.”

14. The Association of London Directors of Children’s Services (ALDCS), working with NHS England and the Mayor’s Office for Policing and Crime (MOPAC) commissioned a review in 2018 of the use of Secure Children’s Homes by London’s children and young people. This review provided detailed evidence of the need for provision in London, which has informed this report.
15. There is also a shortfall of high-cost low incidence provision in London, estimated as at least 225 places, which drives up costs resulting in overspends across London local authorities which exceed £100 million. The Competition and Markets Authority highlighted the lack of suitable local provision nationally, but particularly in London citing – *‘lack of placements of the right kind, in the right place...materially higher prices...and providers carrying very high levels of debt.’*

The proposed provision

16. The Association of London Directors of Children’s Services (ALDCS), London Councils, NHS and London Innovation and Improvement Alliance (LIIA) have expressed unanimous support for the development of secure children’s home provision and developed a business case for secure children’s home provision in London. This business case, which is available on request, has formed the basis of a successful bid to Department for Education (DfE) and funding has been allocated to develop the required provision for London children.
17. As well as ALDCS members, a range of stakeholders were engaged throughout the development of the business case including:
 - London Councils’ Executive, Leaders’ Committee and Lead Members;
 - Society of London Treasurers;
 - Local authorities (children’s social care and youth offending teams);
 - Central government (Department for Education, the Mayor’s Office for Policing and Crime, OFSTED, Ministry of Justice);
 - Clinical experts and practitioners within the field of children’s services and health;
 - Third sector organisations delivering children’s services; and
 - Children and young people with lived experience of SCH.

18. The proposed provision will be designed specifically for London, with purpose-built accommodation. This will reduce the risk of beds needing to be held vacant after a high-risk child is placed there in order to maintain a safe environment. The provision is being designed with co-located step-down facilities with wrap-around support, which is an innovative approach to supporting the children post-placement. This will enable a smoother transition and a return to the family or to the most appropriate long-term placement that will meet the child's needs. This will also prevent use of emergency placements following a 72-hour placement in secure, when the local authority may not have enough time to identify best next placement or prepare child and family for safe return home. This can lead to placement breakdowns or return to care, which incur avoidable costs and impact detrimentally on outcomes for the child.
19. The business case to address the need for Secure Welfare Provision, considered a range of options as listed below:
 - Do nothing
 - One small Secure Children's Home (8-12 places)
 - One large Secure Children's Home (20-24 places)
 - Two small Secure Children's Homes (8-12 places each)
 - Enhancing existing resource
 - Specialised community team
 - Step-down facility
 - Specialised open facility.
20. These were evaluated through stakeholder engagement and assessment against the following criteria:
 - Impact on early intervention and prevention
 - Accessibility of a secure placement
 - Continuity of care and relationships
 - Care and education in the placement
 - Transition from secure to community
 - Value for money
 - Initial investment
 - Deliverability.
21. This options analysis has led to the recommendation for Secure Welfare Children's Homes provision for London with capacity for 24 placements, alongside facilities for step-down accommodation and support to support the children after placement. The key reasons are summarised below:
 - Provision for 24 places would meet the demand in London
 - Step-down provision would enable better exit planning and work to take place to support children and young people within the community, reducing the likelihood of repeat placements in secure welfare

- Step-down facilities will enable more holistic support to be provided to prevent unnecessary transitions into secure provision for children and young people on the edge of a secure placement.

22. The following options were rejected for the reasons given:

- Enhancing existing resource - rejected due to the complexity of allocating resource to disparate CAMHS, social care and Youth Offending Teams across London and the lack of a joined-up approach across London; and
- Specialised community team - rejected due to the risk of duplicating the role of Community Forensic CAMHS teams and fragmenting care pathways.

23. In February 2022, DfE confirmed the funding to take a proposal forward for Secure Children's Home provision in London with 24 places, alongside step-down provision. The step-down provision will provide for much improved transition after placement. Over £3 million has been allocated for development, with capital of over £50+ million expected subject to completion of the development phase. The development funding is currently being held by the London Borough of Barnet on behalf of all London local authorities. DfE is reviewing progress against gateway milestones, one of which is the commitment of local authorities in London - this report seeks that commitment.

24. The DfE development grant will cover the PLV's costs during the development period, therefore local authorities will not be required to make a financial contribution to the running of the PLV until the SCH provision launches. During this development phase, PLV members will work collaboratively to agree how the SCH provision will be run and managed. This includes:

- developing and approving the pricing strategy and revenue model for generating financial income;
- developing the practice model and operating model including but not limited to:
 - the approach to working with children, young people and their families,
 - safeguarding and risk management arrangements,
 - quality assurance arrangements,
 - the commissioning approach / staffing model,
 - the process for managing referrals and placement allocation.

- III. Inputting into and approving a refreshed business case which will:
 - a) revisit and update the 'case for change',
 - b) provide up to date and well-developed costings, informed by the final model of practice and operating model,
 - c) identify the benefits that will be delivered by the new model (financial and non-financial), consider the most suitable route for appointing a service provider.
- 25. During the development period, member local authorities will also explore alternative models for covering the cost of running the PLV that does not require annual subscription.

Proposed legal vehicle to share risks and benefits

- 26. The following models were assessed to determine the best approach for risk-sharing, commissioning and oversight of the new provision:
 - i. A lead London local authority
 - ii. An existing pan-London entity
 - iii. A new pan-London entity
 - iv. Joint venture with a third party
- 27. Following analysis and evaluation of the risks and challenges of each option it is recommended that the Pan-London Vehicle is structured as a new legal entity allowing the new provision to be jointly owned and managed by London local authorities as the risk of investment and operating costs is too great for any one local authority. This new Pan-London Vehicle will manage the commissioning and oversight of the new provision, so the benefits and risks are shared across local authorities. It also means that all member local authorities will be on an equal or close to equal footing in decision-making.
- 28. The following options have been considered as the legal basis for setting up an running the PLV:
 - a. Company Limited by Shares
 - b. Company Limited by Guarantee
 - c. Limited Liability Partnership
 - d. Charitable Status
 - e. Community Interest Company
- 29. Following expert legal analysis of these options, their recommendation is that the PLV should be established as a Company Limited by Guarantee. This enables joint ownership, with limited liability and any profits being held within the Company for future provision.
- 30. The PLV will be hosted in a larger organisation as it will comprise a small number of staff. The key options are for it to be hosted in the London Borough of Barnet as the current fund-holding body or to be hosted in the local authority where the new Secure Children's Home is located, which is

yet to be finalised. The location of the PLV will be agreed after the location of the Secure Children's Home has been finalised.

31. Tax implications for the agreed structure will need to be fully understood, so as to avoid unnecessary VAT consequences.
32. The legal basis, membership and decision-making processes are set out in more detail in Appendix 1 of the report.

Summary of the business case/justification for the procurement

33. The numbers of children are too small and the investment required too great for any one local authority to run its own provision, but there is potential for a pan-London approach, which would enable the benefits to be shared whilst also jointly managing the risks of developing such provision. A pan-London approach also fits with recent reports from the Competition and Markets Authority and the Independent Review of Children's Social Care, which recommended multi-authority approaches to develop greater understanding of need, engage with the market and stimulate new provision.
34. Children with particularly complex needs, including those who are at significant risk of causing harm to themselves or others, including risk to life, can be placed in a secure children's home when no other type of placement would keep them safe. There is a significant shortage of national secure children's home provision, as highlighted by OfSTED, and London has no provision. The numbers of children placed are small, but the placements expensive. Further, where places are not available, the alternatives, often requiring multiple ratios of staff for each child, are amongst the costliest placements for children's services. For example, the Association of Directors of Children's Services (ADCS) recently highlighted more than twenty local authorities paying over £20K per week (equivalent to £1 million per year) and one case of £49,680 per week (equivalent to over £2 million per year).
35. There are few children requiring secure welfare provision and in the eight months to July 2022, the numbers per local authority in London ranged from zero to three, with further children being referred but unable to be placed as a result of lack of capacity. There is an opportunity now to develop and establish secure children's home (SCH) provision in London to bring additional capacity to the market, with capital provided by the Department for Education, but this requires a pan-London approach.
36. It is proposed that a company, owned by London local authorities, should be established to oversee the development and running of the new secure children's home provision. In the long term, it is intended that the PLV's remit will include other key pan-London commissioning arrangements that will improve the lives of London's children and young people. This company is referred to in the rest of this report as a 'Pan-London Vehicle ("PLV")'.

37. A Pan-London Vehicle (PLV), jointly owned by London local authorities, will initially oversee the build and contribute to the development of the operating model for the new SCH provision, as well as the commissioning arrangements to run the service. The PLV will be a means to share the risks and benefits associated with developing and running the SCH, with a key benefit being that places at the new provision will be prioritised for the London local authorities who opt in to join the PLV.

Market considerations

38. There is a shortfall of high-cost low incidence provision in London, estimated as at least 225 places, which drives up costs resulting in overspends across London local authorities. The Competition and Markets Authority highlighted the lack of suitable local provision nationally, but particularly in London citing – *'lack of placements of the right kind, in the right place...materially higher prices...and providers carrying very high levels of debt.'*
39. Given that the number of children in each London borough requiring a secure children's home is small, and the investment for opening a home is significant, collaboration through a pan-London approach appears to be the most cost effective response to achieving the outcomes described in paragraph 20.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

40. The following options have been considered:

- a. Do nothing**

41. This option is rejected because it means that the current outcomes – poor experience for children and expensive placements that deliver sub-optimal outcomes would persist.

- b. Commence a tender process**

42. This option is rejected because the demand for services are such that a tender process would not realise a cost effective service.

- c. Calling off an existing framework**

43. This option is rejected because no frameworks for secure children's homes exists and even if it did, it would not provide access to local (London) provision, due to the lack of secure children's homes in the region.

- d. Collaboration with other local authorities by becoming a founding member of the pan-London vehicle**

44. This option is preferred and recommended for the reasons set out in paragraphs 27 to 29 as well as paragraphs 36 to 37.

Proposed procurement route

45. The proposed procurement route is to pursue option 'd' as outlined in paragraphs 40 to 44.

46. There are clear benefits for London local authorities joining the PLV for commissioning and the joint development of Secure Children's Home provision for London. The key advantages are highlighted below:

Advantages:

1. Development of secure provision in London increasing capacity locally and reducing the overall national shortfall in provision.
2. Local provision for children with accompanying step-down arrangements will improve outcomes and reduce cost of future provision.
3. Reduced staff travel time to meetings and visits and reduced transport costs.
4. Reduced reliance on private care placement market and high-cost provision.
5. Priority access to the provision.
6. Access to provision at cost, whereas others will be charged a higher fee, to include cost of voids etc.
7. Opportunity to shape the future Secure Children's Home and step-down provision and be part of ongoing governance.
8. Opportunity to be part of wider joint commissioning through the PLV in future such as addressing the shortfall in high-cost low incidence provision.

47. Following decisions by London local authority Cabinets or equivalent decision-making bodies across London, the Pan-London Vehicle will be formed as a legal entity with members from the London local authorities who have agreed to opt in.

48. Subject to a sufficiently large number of London local authorities opting in, then the development of the London Secure Children's Home will proceed, with planned opening between 2025 and 2026.

49. Following revision of the business case, local authorities will be asked to confirm their commitment for the remainder of the five-year period based on the commitment in principle sought in this paper. At this stage, it will be possible for local authorities to opt out, but this is considered unlikely as risks are low given the demand for provision.

Identified risks for the procurement

50. There are risks associated with joining the vehicle and oversight of the London Secure Children's Home, which are highlighted alongside mitigating actions in the table below.

Risk	Mitigating action
Failure to achieve expected occupancy levels leading to significant revenue loss	The shortfall in provision in London and nationally makes this a very unlikely risk, although it could be experienced temporarily such as in the initial operating period or other scenarios highlighted below. Lower occupancy in the initial operating period has been modelled. Governance, management oversight, and adequate levels of experienced staff will be key to ensuring good occupancy and these are built into current plans. The PLV and London provision will work closely with the central SCH co-ordination unit to proactively sell places to UK local authorities at a cost that will recover the loss and/or potential loss of revenue.
Unsatisfactory outcome from statutory inspections	Recruitment of experienced Registered Manager and other managers with experience of managing a similar provision. Regular monitoring and quality reviews will reduce this risk. Robust management and swift turnaround would be required if an inspection was less than satisfactory.
Child serious injury or death	Robust risk management policies, procedures and training. Strong practice model, safeguards, rigorous performance reviews and effective oversight, with experienced managers and staff who will be in place to minimise this risk.
Temporary closure of the provision or changes to its registration conditions that limit the full use of places – in response to safeguarding or child protection concerns	Ofsted use enforcement powers proportionately and there are a range of options open to them before the closure of a provision. Closure happens only in exceptional circumstances.

	<p>Mitigation actions include robust safeguarding and child protection arrangements, policies, and training; recruitment of suitably qualified staff and robust quality assurance and monitoring arrangements.</p>
<p>Permanent closure of the provision</p>	<p>Ofsted use enforcement powers proportionately and there are a range of options open to them before the closure of a provision. Closure happens only in exceptional circumstances.</p> <p>Mitigation actions include: robust safeguarding and child protection arrangements, policies, and training; recruitment of suitably qualified staff and robust quality assurance and monitoring arrangements.</p> <p>In the unfortunate and unlikely event that permanent closure happens robust business continuity arrangements will outline the steps to be followed with regards to children placed at the provision.</p> <p>Should the PLV be wound up: PLV members will agree to be liable for the debts of the PLV up to a nominal amount e.g., £1. Prior to the launch of the PLV, members will agree, with legal advice, what will happen to the SCH and other related assets and this will be included in the articles of association.</p>
<p>Adverse publicity/Reputational damage from failure of the centre linked to the above or other factors</p>	<p>Proactive communications, strong practice model, safeguards, rigorous performance reviews and effective oversight, management and staffing will be implemented to minimise this risk.</p>

Key/Non Key decisions

51. This report deals with a key decision.

Policy Framework Implications

52. London Borough of Southwark (LBS) has a duty under the Children Act 1989 (section 22c) to provide sufficient placements in the locality, as far as reasonably practical, to meet the accommodation needs of children looked after and of our care leavers.
53. Southwark's Children Looked After and Care Leavers Placement Sufficiency Strategy 2018-2022¹ sets out the Council's vision, values and principles to meet this duty on a local level:
 - Be the champions our young people deserve
 - Deliver high quality care, support and accommodation services
 - Do our best to enable families to stay together
 - Keep children and young people safe at all times
 - Keep children and young people's needs and wishes central to our work
 - Keep all children and young people in care and care leavers well informed about their rights and where to go for help
 - Empower children and young people to take control of their own lives and realise their full potential
 - Deliver proactive support that secures the best long term outcomes for all children and young people
 - Ensure the views of children, young people and their families inform service improvement
54. The Borough Plan 2020-22² sets out the eight priority themes that demonstrate how the council will achieve the seven vision statements in the plan. The provision of this service will contribute to the delivery of the following commitments. Vision five states that the council aims for 'all children and young people in the borough to grow up in a safe, healthy and happy environment where they have the opportunity to reach their potential'.
55. In response to the impact of COVID-19 on Black, Asian and Minority Ethnic residents, the council embarked on a listening exercise with the communities of Southwark to gain an insight into the barriers and experiences of inequalities Black, Asian and Minority Ethnic communities face in their daily lives. Southwark Stands Together commits to root out inequalities by implementing the recommendation from the Southwark Stands Together work against racial inequalities and injustice.
56. The council has a preference for in house services wherever possible, as it enables services to be fully responsive to council priorities and provides opportunities for council and partner agencies to work closer together and deliver better outcomes for our children and young people.

¹ Children Looked After and Care Leavers Placement Sufficiency Strategy 2018-2022

² Southwark's Borough Plan 2020-22

Programme plan (Non Key Decisions)

Activity	Complete by:
Enter Gateway 1 decision on the Forward Plan	1/12/22
DCRB Review of Gateway 1	18/01/2023
Cabinet Member Briefing	31/01/2023
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	20/03/2023
Planned opening	2025/2026

TUPE/Pensions implications

57. None.

Development of the tender documentation

58. Not applicable due to preferred procurement option.

Advertising the contract

59. Not applicable due to preferred procurement option.

Evaluation

60. Not applicable due to preferred procurement option.

Community, equalities (including socio-economic) and health impacts

Community impact statement

61. The services within this report will provide care and support to children from the borough, enabling them to continue to be part of the communities they have lived in.
62. It is believed that having more local, in London, provision will have a positive impact in relation to the groups identified as having a “protected characteristic” under the Equality Act 2010 and the councils’ equality agenda. London Councils will complete an Equality Impact Assessment (EIA) to further understand and quantify the impact.

Equalities (including socio-economic) impact statement

63. Officers are mindful of the need to have due regard to the Public Sector Equality Duty imposed by section 149 of the Equality Act 2010, which requires the Council to:

- i. Eliminate discrimination, harassment, victimisation or other prohibited conduct;
 - ii. Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it; and
 - iii. Foster good relations between persons who share a relevant protected characteristic and those who do not share it.
64. It is believed that having Secure Children’s provision in London will have a positive impact in relation to the groups identified as having a “protected characteristic” under the Equality Act 2010 and the councils’ equality agenda.
65. Through the development of this procurement strategy, it has been identified that whilst there is a negative impact for all children and young people placed in residential care due to them being placed outside of the borough, there is a disproportionate impact on children from Black, Asian and Minority Ethnic backgrounds, as set out in paragraph 7.
66. In line with the Southwark Stands Together Programme, the council pledges to:
- I. Promote an open and transparent culture where employees who experience/see racism or discrimination are able to raise it and expect the issue to be dealt with swiftly and fairly;
 - II. Listen to and amplify our diverse voices within our organisations on how we create an inclusive, fair and representative workplace at all levels;
 - III. Work to address and prevent structural racial inequalities and structural racism within our organisation, the organisations we partner with and within the service the service we deliver;
 - IV. Champion organisations that address racial injustice and organisations that promote equality and diversity and;
 - V. Ensure that people of all backgrounds can rise to the top of the organisation.
67. These proposals are aimed at improving a range of outcomes for Southwark’s most vulnerable children and young people, including health and education. The current arrangements for secure welfare provision are exacerbating poorer outcomes for this group, particularly those from Black and Minority Ethnic groups who, based on Pan-London analysis, are overrepresented in secure welfare provision.

68. As well as securing better outcomes for Southwark's Black and Minority Ethnic children and young people, a new London based SCH provision will help address the racial disparities and issues relating to their overrepresentation in secure welfare provision.
69. In partnership with other London local authorities, the Council will design the SCH provision, and any other services developed and managed through the PLV, to ensure the specific needs of Southwark's children and young people are taken into consideration.
70. As part of the work to develop the new SCH provision and other PLV services, an Equalities Impact Assessment will be undertaken to consider the impact of these services on children, young people and their families, in terms of protected characteristics.
71. Any consultation responses received as part of the EIA that raise matters related to equalities, diversity and inclusion will be addressed in the final service delivery model and kept under review, this includes any impacts to staff.

Health impact statement

72. The health and wellbeing of children that require this provision will be at the core of service development as described in paragraph 24.
73. The mental health and well being needs of children and young people in SCH can take the form of:
 - i. Have a higher likelihood of having been subjected to trauma or severe neglect; and/or
 - ii. Have experienced high levels of social disadvantage;
 - iii. Have multi-layered, unmet and complex needs; and/or
 - iv. Not be accessing services in a timely manner in the first place, despite high levels of need.
74. Therefore this provision will engage with the health and Justice Specialised Commissioning Workstream. The workstream recognises the temporary nature of the placement and the needs of some very vulnerable children and young people whose particular mental healthcare requirements can be 'hard to meet through conventional services'. The workstream therefore focuses on the needs of some very vulnerable children and young people whose particular mental healthcare requirements can be hard to meet through conventional services, as a result of their unique and complex circumstances.

Climate change implications

75. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions through a Climate Change Strategy³.

³ Climate Change Strategy July 2021

76. All children that should be placed in a secure children's home are placed outside of London. Having such provision within Southwark will reduce the need in the future for some children to be placed at such a distance and is anticipated to reduce emissions due to decreased travel. Some children will however, due to safety reasons, still need to be placed outside of London.
77. Having children placed in London, closer to home, will also prevent unnecessary journeys for professionals, as set out in paragraph 46.

Social Value considerations

78. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well-being of the local area can be secured. The details of how social value will be incorporated within the tender are set out in the following paragraphs.
79. The council, as part of the Fairer Futures Procurement Framework (FFPF) has incorporated the key area of social value commitments, into the commissioning and procurement of services, which includes:
 - Apprenticeships and paid internships;
 - Job creation and local economy;
 - Work placement opportunities;
 - Payment of London Living Wage where appropriate;
 - Environmental and sustainability considerations; and
 - Health and wellbeing considerations.
80. Social value considerations have been included, through social value Themes Outcomes Measures (TOMs) and part of the quality assessment of each bid. These have been tailored to this provision and consider the requirements of the FFPF.

Economic considerations

81. The option recommended in this report will provide job opportunities for Londoners. Apart from the council's commitment to the London Living Wage, officers will advocate for all staff to be paid at least the London Living Wage in the interests of recruitment and retention of high quality staff.

Social considerations

82. Establishing provision in London is critical to supporting our most vulnerable children to remain connected to their communities. Given the intention to develop step down accommodation, there is the opportunity to improve outcomes for those children as they move into adulthood and the likelihood of their future positive contribution to society.

Environmental/Sustainability considerations

83. All children currently in secure welfare provision are placed outside of London. Having provision in London will reduce the distance at which children are placed and have a positive environmental impact due to decreased travel by social care and health professionals. Some children will however, due to their needs, still need to be placed outside of London.

Plans for the monitoring and management of the contract

84. Not applicable for this report.

Staffing/procurement implications

85. Due to the preferred procurement strategy, there are no procurement implications.

Staffing/procurement implications

86. There are none to declare.

Financial implications

87. The development costs (c£3 million) and the capital costs (c£50+ million) will be provided by Department for Education, subject to completion of agreed project milestones. This is a significant investment in provision for London's most vulnerable children which will be secured for London with the commitment of London local authorities.
88. The total annual of cost of placements at Secure Children's Homes that the new provision would replace was estimated in the original business case (2019 figures) as £7.8 million per annum. The new provision overseen by the PLV has an estimated cost of £7.5 million (2019 figures), based on the original business case – note that these costs have not been adjusted for inflation. See Appendix 2 for inflation adjusted financial modelling.
89. Further, there are additional financial benefits as outlined below –
- Reduction in staff travel time to out of region Secure Children's Homes
 - Reduction in staff time sourcing placements
 - Reduction in secure transportation costs
 - Reduction in use and cost of unregulated/bespoke provision, often sourced at short notice and at extremely high costs (over £12,000 per week)
 - Potential for the PLV to gain a share of any margin achieved and consequently reduce the cost of membership
 - Potential further savings through other joint commissioning projects
90. The full business case will be revised and updated following site confirmation and local authority confirmation of participation. In the meanwhile, the costs have been updated using the Consumer Price Index

(CPI) and evidence from London local authorities, with summary modelling in Appendix 2.

91. The financial commitment by each local authority is £20K per year (payable only once the provision has launched) from 1st April 2023 to 31st March 2028 for the operating costs of the PLV, with an opt-out facility after three years, informed by the revised business case, detailed model and confirmed location. Additionally, each participating local authority will share in the risk and benefits of operating the Secure Children's Home provision estimated to be £8 million per year (adjusted from 2019 for inflation). As demand for provision exceeds the capacity of the new London Secure Children's Home provision, the risks are minimal and the benefits across London are significant. A range of scenarios are modelled in Appendix 2, setting out the financial impact in each case.
92. Provision at Secure Children's Homes costs between £7k and £10.5K per week, based on sample London data. Where Secure Children's Home provision is not available, alternative provision is very costly, typically £12k+. Nationally, the Association of Directors of Children's Services (ADCS) has highlighted more than twenty local authorities paying £20K+ per week (equivalent to £1m per year) and one example of a local authority paying just under £50k per week (equivalent to over £2m per year). Some London local authorities have no children on Secure places currently, but these are very significant costs even if only experienced once every few years.
93. For this report, the operating costs of the new Secure Children's Home, plus transport costs and the running costs of the PLV are compared for a range of occupancy levels and placement fees. The modelling is conducted for a three-year period as initially commitment is sought from local authorities for five years, two years of which are planned as set-up and three years as the initial operating period. Commitment will then be sought for each subsequent five-year period. Four scenarios for occupancy levels are considered:
 - 100% occupancy
 - 90% occupancy
 - 85% occupancy
 - 50% occupancy in Year 1 followed by 85% in Years 2 and 3
94. Three levels of placement charges are considered based on the sample London data referred to in section 4.6: £8250 per week as the mid-point of current Secure Children's Home Charges; £10,000 per week; and £12,000 per week, with the latter recognising this provision will replace some very costly alternatives.
95. The modelling also considers via a graph the placement charge for a variety of occupancy levels, enabling implications of the full range of occupancy to be viewed from 100% down to 60%. All modelling allows a 10% margin for

the provider, although provider costs would be expected to be determined competitively through procurement.

96. The modelling demonstrates most scenarios generate a surplus to support future provision. The risk of the lower occupancy scenarios being realised is low as there is a shortfall of provision nationally so places could be taken up from outside London if agreed. It is proposed that provision would be prioritised for the London local authorities which have opted into membership.
97. Placement costs will be funded by individual local authorities using budgets currently deployed on children's placements and from the modelling are expected to be less than current costs. Placements for London local authorities which opt to be members will be charged at cost, whereas other London local authorities will be charged a higher fee, for example to cover the cost of voids, with all surplus income supporting future provision.
98. As owner of the provision, the PLV (and thus member local authorities) will have more control over the pricing structure and will be able to reduce the wide variation in charges that can arise within very short timeframes. This will significantly provide more transparency in costs and pricing.
99. The PLV member local authorities will lead the strategic development of the provision and have scrutiny over the quality of the service delivery through the quality assurance part of the commissioning arrangements. Improved quality of provision will lead to better outcomes for children and reduced future costs from repeat placements and other support.
100. The PLV will also be developed with the potential for wider joint commissioning in future. This will enable collective action to address significant financial pressures and shortfalls in provision for children, particularly those needing high-cost low incidence provision. Further the PLV will enable joint pan-London market intelligence and market shaping, including developing new private, voluntary, independent and local authority provision.
101. The table below sets out the average spend per year by Southwark council for secure welfare provision at approximately £450k and this average is in excess of the outturns for the last four years. Given the low number placements, it is difficult to estimate the expenditure for placements through the PLV but if the provision opens in 2025 then the estimated maximum expenditure over the three remaining years of membership is approximately £1.3 million.

	<u>Secure cost (excl Remand)</u>	<u>Secure cost (incl Remand)</u>
2016-17	£556,179	£683,715
2017-18	£822,931	unchanged
2018-19	£246,858	£271,258
2019-20	£387,102	unchanged
2020-21	£404,188	unchanged
2021-22	<u>£212,627</u>	<u>unchanged</u>
Total:	<u>£2,629,885</u>	<u>£2,781,821</u>
Avg per year:	£438,314	£463,637

Investment implications

102. The support of London local authorities is required in order to secure the capital funding from Department for Education, which is estimated at £50+ million.
103. Commitment is sought for a five-year period, 1 April 2023 to 31 March 2028, with a breakpoint after three years after the refreshed business case has been developed, as well as the service pricing structure, commissioning approach, operating model, practice model and the SCH's location is confirmed. Thereafter, commitment will be sought for ten-year periods, with breakpoints every five-years.
104. To cover the running costs of the PLV, the financial commitment from each local authority is £20k per year, subject to inflation adjustment and payable only once the provision has launched. This is unless an alternative model for funding the PLV, that does not require an annual subscription, is agreed by members during the development phase.
105. Commitment is sought to participate in joint commissioning arrangements.
106. The decision to proceed after three years will be taken in accordance, and as appropriate, within the council's contract standing orders.

Legal implications

107. Please see the concurrent report of the Director of Law and Governance.

Consultation

108. There has been wide consultation on the proposals outlined in this report to ensure it accurately reflects the aspirations and priorities of London local authorities. The groups that have been consulted are outlined in paragraph 17.
109. Consultation with relevant groups will be ongoing throughout the development phase and this will include engagement, consultation and coproduction with children, young people and their families as appropriate.

Other implications or issues

110. None identified for this report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

111. A formal concurrent is not required for this report as the nature of the services falls outside the scope of Part 2 of the Public Contracts Regulations 2015 (PCR2015) in cases where all of the following conditions are fulfilled:

- The contracting authority exercises over the legal person concerned a control similar to that which it exercises over its own departments;
- More than 80% of the activities of the controlled legal person are carried out in the performance of tasks entrusted to it by the controlling contracting authority or by other legal persons controlled by that contracting authority; and
- There is no direct private capital participation in the controlled legal person with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with the EU Treaties, which do not exert a decisive influence on the controlled legal person.

112. Moreover, it is confirmed that the strategy as outlined is consistent with statutory provisions available to the council in relation to the set-up and operation of a company, namely The General Power of Competence (GPOC) – section 1, Localism Act 2011 (“LA11”) and The Incidental Power – Section 111, Local Government Act 1972 (please refer to Appendix 1 to this report).

Assistant Chief Executive – Governance and Assurance

113. This report seeks approval for Southwark Council to become a member of a not-for-profit company, limited by guarantee, provisionally to be known as the Pan London Vehicle (PLV), for the purpose of establishing and operating secure children’s home provision in London for a period of 5 years from 1 April 2023 to 31 March 2028.

114. The report outlines from paragraph 26 the consideration which has been given to the various options that might form the basis for setting up a legal entity to run the PLV, whilst Appendix 1 provides a comprehensive account of the legislative provisions which underpin the report’s recommendations. The nature of the proposed PLV is briefly described within paragraphs 36 and 37 and the advantages, benefits and mechanics of the PLV arrangement are set out in paragraphs 46 to 49.

115. Paragraphs 52 to 56 and 63 to 71 note that the recommendations of this report are consistent with other statutory duties (notably the Public Sector Equality Duty comprised in section 149 of the Equality Act 2010) and with relevant corporate policy and objectives. It is also confirmed that the recommendations accord with the council's Contract Standing Orders, which reserve the decision in this matter to the Strategic Director of Children's and Adults' Services.

Strategic Director of Finance and Governance (36DK2022-23)

116. The Strategic Director of Finance and governance notes the contents of this report, and in particular the contents of the Financial Implications section. If this report's recommendations are agreed, the Council is committed to paying £20k per year for the next 3 years, given the break-out clause in the agreement.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report (and as otherwise recorded in Part B below).

Signature  Date **1 March 2023**
Designation **David Quirke-Thornton**
Strategic Director of Children's and Adults' Services

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions that are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available (see 'FOR DELEGATED DECISIONS' section of the guidance).

1. DECISION(S)
As set out in the recommendations of the report.

2. REASONS FOR DECISION
As set out in the report.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION

As set out in the report.

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION *

None.

* Contract standing order 6.4.1 states that for contracts with an Estimated Contract Value of £100,000 or more, the lead contract officer (LCO) must consult with the relevant cabinet member before a procurement strategy is implemented.

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST

If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.

None.

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

Signature



Date **1 March 2023**

Designation

David Quirke-Thornton

Strategic Director of Children's and Adults' Services

7. CONSIDERATION GIVEN TO WHETHER, AS A NON-KEY DECISION, THIS SHOULD BE FORWARDED TO THE CONSTITUTIONAL TEAM FOR PUBLICATION IN ACCORDANCE WITH REGULATION 13(4)*

The decision taker should consider whether although a non-key decision, the decision is sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available. Where there is any doubt, having considered the importance and/or sensitivity of a decision, it should be deemed that Regulation 13(4) would apply.

I consider that the decision be made available for publication under Regulation 13(4).*

Signature  Date **1 March 2023**
Designation **David Quirke-Thornton**
Strategic Director of Children's and Adult's Services

* Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the council is required to put in place a scheme for recording and publishing some officer executive decisions. This process is sometimes referred to as "Regulation 13(4)".

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Pan-London Analysis commissioned by Association of London Directors of Children's Services (ALDCS), working with NHS England and the Mayor's Office for Policing and Crime (MOPAC)	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://www.londoncouncils.gov.uk/node/37205		
CMA - market study into children's social care in England, Scotland and Wales on 12 March 2021	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://www.gov.uk/government/publications/childrens-social-care-market-study-final-report/final-report		
Independent Review of Children's Social Care	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://childrensocialcare.independent-review.uk/		
The Annual Report of His Majesty's Chief Inspector Of Education, Children's Services and Skills 2021/22	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://www.gov.uk/government/publications/ofsted-annual-report-202122-education-childrens-services-and-skills/the-annual-report-of-his-majestys-chief-inspector-of-education-childrens-services-and-skills-202122#children-in-care-and-care-leavers		
Children Act 1989 (section 22c)	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://www.legislation.gov.uk/ukpga/1989/41/section/22C		

Southwark's Children Looked After and Care Leavers Placement Sufficiency Strategy 2018-2022	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://moderngov.southwark.gov.uk/mgAi.aspx?ID=50500		
Borough Plan 2020-22	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://moderngov.southwark.gov.uk/documents/s92006/Appendix%20A%20Southwarks%20Borough%20Plan%202020.pdf		
Southwark Stands Together Pledges	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://www.southwark.gov.uk/engagement-and-consultations/southwark-stands-together/southwark-stands-together-pledges		
Equality Act 2010	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://www.legislation.gov.uk/ukpga/2010/15/contents		
Public Sector Equality Duty	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty		
14 July 2021 – Southwark Council Assembly – Item 6.1 Constitutional Changes: Climate Emergency and Equality, Council Assembly role and functions	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460

Link: https://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=132&MId=7042&Ver=4		
Public Services (Social Value) Act 2012	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://www.legislation.gov.uk/ukpga/2012/3/enacted		
Fairer Futures Procurement Framework	Commissioning Directorate, Children's and Adult's Services, 4 th Floor, 160 Tooley Street, London, SE1 2QH	Genette Laws 020 752 53460
Link: https://www.southwark.gov.uk/search?q=Fairer+Futures+Procurement+Framework		

APPENDICES

No	Title
Appendix 1	PLV legal structure and membership
Appendix 2	Financial Modelling for the Secure Children's Home Project and PLV

AUDIT TRAIL

Lead Officer	David Quirke-Thornton, Strategic Director for Children's and Adults' Services	
Report Author	Genette Laws, Director of Commissioning	
Version	Final	
Dated	31 January 2023	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Senior Finance Manager - Finance and Governance	Yes	Yes
Procurement Business Partner	Yes	Yes
Assistant Chief Executive – Governance and Assurance, Contract Lawyer	Yes	Yes
Director of Exchequer (for housing contracts only)	Not applicable	Not applicable
Cabinet Member	Yes	No
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Not applicable	Not applicable
Cabinet Member	No	No
Date final report sent to Constitutional		1 March 2023