

Scotland Excel

To: Executive Sub Committee

On: 10 February 2017

**Report
by
Director Scotland Excel**

Tender: Secure Care

Schedule: 07/16

Period: 1 April 2017 until 31 March 2019 with an option to extend up to 31 March 2020

1. Introduction and Background

The current secure care arrangements began in July 2013 and were put in place for a period of three years with the option to extend for up to a maximum of one further year.

The Scottish Government has funded the Centre for Youth and Criminal Justice (CYCJ) to carry out a fixed term project to make recommendations about the future configuration of the secure estate in Scotland. Amongst other objectives, the project is looking at “developing future medium/longer term options for the sustained operation of the secure estate and providing recommendations for the Scottish Government, secure accommodation providers, local authorities and their representative bodies, to consider”.

This project has pivotal role in determining any long term procurement strategy for secure care and is due to complete in March 2017. As the current contracts expire in June 2017, the results of the project will not be available in time to be factored into a longer term arrangement.

It was therefore agreed with stakeholders that, in order to ensure service continuity and create stability in the sector whilst awaiting the outcome of the review, the term of this new arrangement be for a period of two years, with the option to extend up to 12 months.

A form of negotiation, tailored to reflect the EU’s light-touch regime for the procurement of care and support services, was followed for this successor arrangement on the basis that the independent market in Scotland is limited to the four currently contracted providers. This report covers the process and outcome of this negotiated procedure and, in section 5, recommends the award

of contracts for secure care from 1 April 2017 to 30 March 2019 with an option to extend up to 31 March 2020.

2. Scope, Participation and Spend

Secure accommodation restricts the liberty of children and young people under the age of 18 placed in such care. Children and young people can be placed in secure accommodation through a variety of ways including where a child is 'looked after' by the local authority, as a requirement of the Children's Hearings Scotland system, or the Courts.

Secure accommodation is a form of residential care for the very small number of children and young people whose needs and risks, for a particular period in their lives, can only be managed in the controlled settings of secure accommodation. Such children and young people have been deemed to be a significant risk to themselves or others in the community.

Scotland currently has 84 secure accommodation places, spread across five dedicated secure units including the following four independent secure accommodation providers:

- The Good Shepherd Centre Bishopton;
- Kibble Education and Care Centre;
- Rossie Young People's Trust; and
- St. Mary's Kenmure

The four independent providers offer 78 places across Scotland, with the remaining 6 places operated by the City of Edinburgh Council.

All of the units provide a full curriculum of care, delivering a range of educational, health and behavioural programmes for young people. In addition, the units undertake tailored programmes of work to prepare young people for their transition back into the community.

There are two purchasers of secure accommodation services; the Scottish Government is responsible for secure accommodation placements for sentenced children whilst local authorities are responsible for secure accommodation placements for children who have been remanded in custody and for children who are placed in secure accommodation for welfare reasons.

All parties responsible for purchasing secure accommodation placements in Scotland, each of the 32 local authorities and the Scottish Government, participate in the current contract. Through ongoing engagement and dialogue with purchasers, Scotland Excel has again secured commitment to participate from all of the current purchasing organisations from the start date of the new contracts, as is detailed in Appendix 1.

There is no guarantee of business under the Secure Care tender however the estimated forecast spend for participating purchasers is £20m per annum, this comprises:

- Local authority spend - £15.4 million;
- Scottish Government spend - £2.8 million; and
- Contingency allowance for variable demand and additional services - £1.8 million.

Given that the requirement for secure accommodation can only be determined by the authority of a children's hearing or by the order of a court, demand and spend patterns across purchasers are variable. As a consequence, the related figures quoted in this report are estimates only, subject to change over the life of the contracts.

3. Procurement Process

Procuring care and support services is a complex area and accordingly requires special consideration within a public body's overall approach to the procurement of goods and services.

The most recent European legislation about public procurement introduced a new regime (known as the 'light-touch' regime) for the procurement of care and support services. While the light-touch regime provides public bodies with some flexibility to determine how to procure social care services, any such procurement is still guided by some overarching principles, including:

- transparency;
- equal treatment and non-discrimination; and
- proportionality and mutual recognition.

Further, in reaching a decision on how to procure social care services, the Scottish Procurement Directorate's Guidance on the Procurement of Care and Support Services 2016 (Best Practice) advises that contracting authorities must also consider; the timing, cost and nature of the requirement, the geographic location and/or rurality and the regulatory requirements relating to services and workforce.

Having given consideration to the above principles and Guidance, the Director of Scotland Excel approved the use of a form of negotiation, tailored to reflect the light-touch regime, with the four currently contracted providers: The Good Shepherd Centre Bishopton, Kibble Education and Care Centre, Rossie Young People's Trust and St. Mary's Kenmure for this secure care arrangement.

This means that, following the approval of the recommendations in this report, an individually negotiated contract will be entered into with each of the four providers. However, as with the current arrangement, each of the providers entering into this arrangement is aware that this does not offer any guarantee of business from purchasers.

Scotland Excel voluntarily published a contract notice in the Official Journal of the European Union (OJEU) on 16 September 2016. Given the critical nature of the services and to ensure that the providers continue to be suitably qualified to provide quality secure accommodation services, the contract notice detailed

robust selection criteria. This included a requirement for registration with the Care Inspectorate and Registrar of Independent Schools, ministerial approval under the Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011 for accommodations to be provided for the sole purpose of restricting the liberty of children in residential premises where care services are provided, an evaluation of financial stability; and insurance provision. Publication of this notice fulfilled the purpose of providing adequate publicity for the proposed new contracts.

The invitation to tender (ITT) was published on 19 September 2016 and included the above minimum selection criteria. In addition, value for money was evaluated using the following service delivery and financial weightings:

Quality	60%
Financial	40%

In the quality section, to assess the quality of the service proposed, providers were asked to respond to a range of method statements. These method statements were developed with the assistance of a panel of purchasers and evaluated by a panel of professional practitioners from purchasers.

The financial section sought a weekly fee, and this was scored against a benchmark weekly fee of £5,672 per child.

In assessing the bids, where Scotland Excel identified scope for improving the offer, further negotiations were conducted in accordance with the voluntarily published tender terms. Negotiations were carried out in November and December 2016 and were led by Scotland Excel with a negotiation panel comprised of local authority and Scottish Government purchasers.

The purpose of the negotiations with individual providers included, where relevant, agreeing improvements in a number of key areas of the fee proposals. All matters were successfully agreed and this recommendation reflects the improved offers.

4. Report on Offers Received

Completed tender documents were submitted by five providers as detailed at Appendix 2 with no late offers received. One offer did not meet the necessary minimum selection criteria and as such was not evaluated further. The bidder was notified of this on 25 October 2016.

An evaluation of each remaining offer was carried out, based on the criteria and methodology set out in the tender documents.

The final scores obtained by the remaining four providers against the weightings are set out in Appendix 3.

5. Recommendations

In order to secure the ongoing availability of secure accommodation placements to purchasers and based on the evaluation carried out, it is recommended that contracts are awarded to the four providers detailed in Appendix 3.

6. Benefits

Cost Impact

As part of the procurement process, all four current providers initially submitted a fee in excess of their current rate. The average fee increase equated to 4%.

Scotland Excel negotiated with the providers to ensure fees reflected the cost of providing care to the vulnerable client group, with a particular focus on minimising those costs that are not directly related to the child or young person. Another key focus was an assessment of staffing levels and salaries. The negotiations took place in advance of an agreed COSLA pay offer; however, a 1% salary uplift (with allowances for grading differentials) for staff in secure has been negotiated with providers for 2017/2018. Should the agreed COSLA pay offer differ from this, Scotland Excel will address this in future negotiations with providers. These recommended fees ensure that the living wage continues to be paid to all staff.

Following negotiations, the average fee increase has reduced to 0.5%.

Scotland Excel conducted a benchmarking exercise which compared the fees paid currently with the new negotiated fees. This was then applied to each purchaser's anticipated spend. Each purchaser chose whether to have the average uplift or a weighted average (based on provider usage under the current contract) applied to spend.

On average, the overall expected increase over the next 12 months to purchasers and the Scottish Government will be approximately £93k. The negotiations on areas not directly related to the child or young person resulted in the recommended weekly fees being held to within a relatively narrow range. The negotiations resulted in some significant reductions from the initial fee increase requests. It is estimated that the negotiations have avoided potential costs of approximately £606k to purchasers over the next 12 months.

Price Stability

At the implementation of the first framework in 2011, the range of fees offered by providers varied significantly. Through continued close scrutiny of the providers' budget proposals during the life of the current contracts and in the process of agreeing the new contracts, Scotland Excel has worked with providers both to achieve efficiencies and ensure that the fees paid are sustainable. This narrowing of the range of fees provides assurance that the rates being proposed are becoming more transparent and more sustainable over time and also supports purchasers to continue to make placements based on the needs of children placed in secure accommodation.

The providers have agreed to hold their fees at least until 1 April 2018. Any request for a fee increase will only be considered in accordance with the contract terms and conditions, including timescales, and will be evaluated against prevailing market conditions.

In addition, the contract contains a clause which allows for any surplus generated through the contract to be re-invested in the following year's budget proposal, which could reduce the agreed fee in future years and/or lead to improved quality of service.

Sustainable Procurement Benefits

Providers were requested to consider sustainability issues within the technical section of the tender. By its nature, the contract supports some of the most vulnerable and disadvantaged children and young people in society. Providers have also committed to a range of other benefits.

Community Benefits

Providers detailed a wide range of benefits that will be provided to the local community. These commitments will be monitored through the life of the contract and will form part of the regular reporting requirements. Providers have committed to:

- provide use of extensive grounds to the community which can be used for sporting events and picnics and can be used for walks;
- support the local economy wherever possible, sourcing local products, services, and expertise from nearby producers, sole traders and Small Medium Enterprises (SME's);
- invite local small businesses and district school enterprise teams to run a stall at Christmas Fayres;
- support local bands and youth and theatre groups by inviting them to perform at events held within the centres,
- support local employment; and
- provide work opportunities to young people from disadvantaged backgrounds, student work placements.

Environmental

Eco-Schools¹ is an international initiative designed to encourage whole-school community action on Learning for Sustainability. The initiative encourages closer links between schools and the communities around them. Schools can progress through a series of awards to ultimately achieve the Eco-Schools International Green Flag Award. Providers were asked to commit to achieving the Eco-Schools International Green Flag Award. Two providers have committed to retaining their status as Eco-Schools International Green Flag holders whilst the remaining two providers have committed to achieving this award through the lifetime of the contract.

¹ <http://www.keepsotlandbeautiful.org/sustainable-development-education/eco-schools/>

Providers detailed a wide range of other environmental benefits which will also be monitored through the life of the contract and will form part of the regular reporting requirements. Providers have committed to:

- create a wildlife meadow with 500 saplings;
- continue to run a commercial wastewater treatment works;
- replace lighting with more efficient LED lighting;
- operate community garden projects where food is grown and used within the centres;
- minimise food waste through daily monitoring and recycle food waste through use of own composting facilities which can then be utilised in the community garden;
- take part in 'Fairtrade fortnight' including a series of lessons which focus on the definition and importance of the existence of 'Fairtrade' where discussions around better prices, decent working conditions and fair terms of trade for farmers and workers are essential components of every lesson;
- take part in the Cycle to Work scheme; and
- investigate the possibility of creating a solar farm within the grounds.

Living Wage

Providers were asked to confirm their approach to fair work practices and the living wage status. Of the four recommended providers, two have confirmed they will be accredited living wage employers by the contract start date. The remaining two providers also pay the living wage to all employees (except volunteers, apprentices and interns) but are not accredited living wage employers.

Scotland Excel includes monitoring Fair Work Practices and Living Wage within its contract and supplier/provider management programme and will work with all awarded suppliers who have not yet secured accreditation by the Living Wage Foundation to encourage them to achieve this.

Other Benefits

Management Information

Scotland Excel will continue to use the management information submitted by the providers to create quarterly contract management reports. These contract management reports will provide a detailed account of spend and use by provider, relevant trend information and information on the population of the independent secure estate.

The quarterly management information and annual reports will continue to be developed by Scotland Excel to improve reporting to purchasers to enable them to understand placement patterns in relation to the national picture and to inform good practice across the sector.

Quality of Service and Improving Outcomes

The vision for the Scottish Government funded project, which is being carried out by the CYCJ, is for those children and young people in Scotland for whom placement in secure accommodation is necessary to keep them and/or their

communities safe, they experience secure, nurturing high quality care, where their needs and rights are recognised, understood and met and there is a positive impact on their immediate and longer term safety and wellbeing.

Scotland Excel is actively involved in the project and recently participated in a meeting of partners to agree the focus of the review. Scotland Excel meets regularly with the project lead to ensure that the outcomes of the review will inform the strategy for the future of secure care contracts.

The contract requires that providers consult with children in their care on at least an annual basis and use feedback given to inform the future of their service.

Further, the contract requires providers to support children, where appropriate, in their transition from secure accommodation back to the community, and to assist children to learn skills supporting their future independence.

7. Contract Mobilisation and Management

In accordance with Scotland Excel's established Contract Management programme, these contracts have been classified as a level 1 arrangement in terms of risk and spend requiring as a minimum six monthly provider meetings and a meeting of purchasers will be convened on a regular basis throughout the period.

Scotland Excel will provide a mobilisation pack to purchasers which will contain details on the contract arrangements and the relevant documents such as the individual placement agreement which they will complete for every placement.

Each participating purchaser will be asked to confirm its lead contract officer through whom information will be gathered and disseminated.

On a quarterly basis, providers will submit management information on a range of areas including individual placements, community benefits and staffing qualifications which will be monitored and analysed by Scotland Excel and used in the creation of regular management information reports.

8. Summary

The recommended secure care contractual arrangements aim to provide a high quality service which demonstrably improves outcomes for the vulnerable children placed in their care and provides transparency and effective management of fees.

Accordingly, the Executive Sub Committee is requested to approve the recommendation contained in section five of this report to award these contracts.

Appendix 1 – Participation, Spend and Cost Impact Summary Secure Care 0716

Purchaser	Participate in Contract	Participation Entry Date	Est. Annual Spend	Source of Spend Data
Aberdeen City	Yes	Contract Start	£936,000	Member provided
Aberdeenshire	Yes	Contract Start	£285,700	Contract management information - confirmed by member
Angus	Yes	Contract Start	£887,337	Member provided
Argyll & Bute	Yes	Contract Start	£96,971	Contract management information - confirmed by member
City of Edinburgh	Yes	Contract Start	£899,024	Member provided
Clackmannanshire	Yes	Contract Start	£194,176	Contract management information - confirmed by member
Dunfries & Galloway	Yes	Contract Start	£332,074	Contract management information - confirmed by member
Dundee City	Yes	Contract Start	£805,066	Contract management information - confirmed by member
East Ayrshire	Yes	Contract Start	£307,400	Member provided
East Dunbartonshire	Yes	Contract Start	£357,345	Contract management information
East Lothian	Yes	Contract Start	£240,000	Member provided
East Renfrewshire	Yes	Contract Start	£202,619	Contract management information
Eilean Siar	Yes	Contract Start	£22,752	Contract management information - confirmed by member
Falkirk	Yes	Contract Start	£755,543	Contract management information - confirmed by member
Fife	Yes	Contract Start	£1,485,000	Member provided
Glasgow City	Yes	Contract Start	£1,500,000	Member provided
Highland	Yes	Contract Start	£616,141	Contract management information - confirmed by member
Inverclyde	Yes	Contract Start	£498,563	Member provided
Midlothian	Yes	Contract Start	£307,923	Contract management information
Moray	Yes	Contract Start	£250,000	Member provided
North Ayrshire	Yes	Contract Start	£301,412	Member provided
North Lanarkshire	Yes	Contract Start	£569,938	Contract management information
Orkney Islands	Yes	Contract Start	£87,423	Contract management information - confirmed by member
Perth & Kinross	Yes	Contract Start	£245,068	Contract management information
Renfrewshire	Yes	Contract Start	£800,000	Member provided
Scottish Borders	Yes	Contract Start	£28,397	Contract management information - confirmed by member
Scottish Government	Yes	Contract Start	£2,800,000	Member provided
Shetland Islands	Yes	Contract Start	£44,984	Contract management information
South Ayrshire	Yes	Contract Start	£364,219	Contract management information
South Lanarkshire	Yes	Contract Start	£887,442	Contract management information - confirmed by member
Stirling	Yes	Contract Start	£295,000	Member provided
West Dunbartonshire	Yes	Contract Start	£235,406	Member provided
West Lothian	Yes	Contract Start	£530,035	Contract management information - confirmed by member
			£18,168,958	

**Appendix 2 - SME Status
Secure Care 0716**

Provider Name	SME Status	Location	Organisational Status
The Good Shepherd Centre Bishopton	Medium	Bishopton	Private Limited Company by Guarantee
Kibble Education and Care Centre	Medium	Paisley	Private Limited Company by Guarantee
Mochridhe Limited*	Medium	Glasgow	Private Limited Company
Rossie Young People's Trust T/A Rossie Secure Accommodation Services	Medium	Montrose	Private Limited Company by Guarantee
St. Mary's Kenmure	Medium	Bishopbriggs	Private Limited Company by Guarantee

Appendix 3 - Scoring and Recommendations
Secure Care 0716

Provider Name	Final Score
Kibble Education and Care Centre	86.2
St. Mary's Kenmure	79.5
Rossie Young People's Trust T/A Rossie Secure Accommodation Services	76.1
The Good Shepherd Centre Bishopton	73.0