

Phil Norrey
Chief Executive

To: The Chair and Members of the
Cabinet

County Hall
Topsham Road
Exeter
Devon
EX2 4QD

(See below)

Your ref :
Our ref :

Date : 2 January 2018
Please ask for : Karen Strahan, 01392 382264

Email: karen.strahan@devon.gov.uk
:

CABINET

Wednesday, 10th January, 2018

A meeting of the Cabinet is to be held on the above date at 10.30 am in the Committee Suite - County Hall to consider the following matters.

P NORREY
Chief Executive

A G E N D A

- 18 **Family Based Care Tender (Fostering): Procurement Process (Pages 1 - 14)**

Impact Assessment attached.

Electoral Divisions(s): All Divisions

Notice of all items listed above have been included in the Council's Forward Plan for the required period, unless otherwise indicated. The [Forward Plan](#) is published on the County Council's website.

Notice of the decisions taken by the Cabinet will be sent by email to all Members of the Council within 2 working days of their being made and will, in the case of key decisions, come into force 5 working days after that date unless 'called-in' or referred back in line with the provisions of the Council's Constitution. The Minutes of this meeting will be published on the Council's website, as indicated below, as soon as possible.

Members are reminded that Part II Reports contain confidential information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s).

Members are also reminded of the need to dispose of such reports carefully and are therefore invited to return them to the Democratic Services Officer at the conclusion of the meeting for disposal.

Membership

Councillors J Hart (Chair), S Barker, J Clatworthy, R Croad, A Davis, S Hughes, A Leadbetter, J McInnes, B Parsons, F Biederman, J Brazil and M Shaw

Cabinet Member Remits

Councillors Hart (Policy & Corporate), Barker (Economy & Skills), Clatworthy (Resources & Asset Management), Croad (Community, Public Health, Transportation & Environmental Services), Davis (Infrastructure Development & Waste), S Hughes (Highway Management), Leadbetter (Adult Social Care & Health Services), McInnes (Children's Services & Schools) and Parsons (Organisational Development & Digital Transformation)

Declaration of Interests

Members are reminded that they must declare any interest they may have in any item to be considered at this meeting, prior to any discussion taking place on that item.

Access to Information

Any person wishing to inspect the Council's / Cabinet Forward Plan or any Reports or Background Papers relating to any item on this agenda should contact Karen Strahan, 01392 382264. The Forward Plan and the Agenda and Minutes of the Committee are published on the Council's Website and can also be accessed via the Modern.Gov app, available from the usual stores.

Webcasting, Recording or Reporting of Meetings and Proceedings

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Questions to the Cabinet / Public Participation

A Member of the Council may ask the Leader of the Council or the appropriate Cabinet Member a question about any subject for which the Leader or Cabinet Member has responsibility.

Any member of the public resident in the administrative area of the county of Devon may also ask the Leader a question upon a matter which, in every case, relates to the functions of the Council. Questions must be delivered to the Office of the Chief Executive Directorate by 12 noon on the fourth working day before the date of the meeting. For further information please contact Karen Strahan on 01392 382264 or look at our website at: <http://new.devon.gov.uk/democracy/guide/public-participation-at-committee-meetings/>

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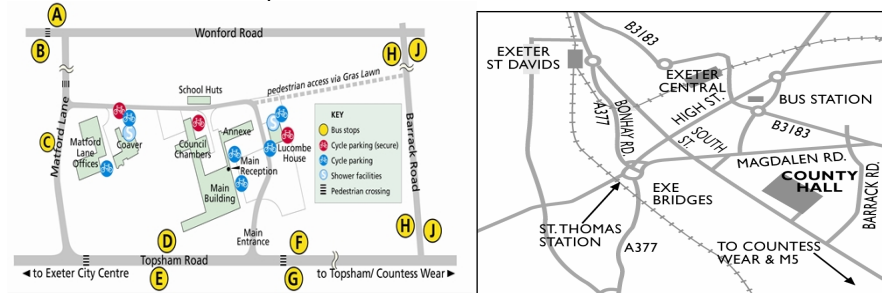
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NB   Denotes bus stops

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First Aid

Contact Main Reception (extension 2504) for a trained first aider.

Impact Assessment

Version 2017

To publish, please send a dated PDF to impactassessment-mailbox@devon.gov.uk

Assessment of:	Peninsula Fostering in Independent Fostering Agency Placements
Service:	Children’s Services

Head of Service:	Fiona Fleming, Head of Commissioning
Date of sign off by Head Of Service/version:	4 th January 2018
Assessment carried out by (incl. job title):	Peter Taylor, Senior Commissioning Officer, November 2017

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Section 1 - Background

Description:	<p>Peninsula Fostering Framework Contract re-tender:</p> <p>The retender of the Peninsula Fostering Framework contract for children and young people by the Peninsula Commissioning Board. (Devon County Council is a member of this partnership along with Cornwall Council, Plymouth City Council, Somerset County Council and Torbay Council. The Partnership has existed since 2006 and tendered jointly for children’s placements since 2009.)</p> <p>The Peninsula Commissioning Board takes responsibility for co-ordinating the quality assurance of the provision of fostering, residential, special school and 16+ placements for vulnerable children and young people. Providers are scrutinised to ensure they can meet complex needs and encouraged to develop or sustain provision as close to the south west as possible, to support children and young people remaining as close to home as they can.</p>
Reason for	The current contract for Independent Fostering Agency Placements was due to end 31 st March 2017. This was

change/review:	extended to 31 st March 2018 following a decision not to award in response to a lack of sufficiency from an earlier tender, launched late 2017. Feedback from providers indicated that the main reason they did not bid or withdrew their bids was due to the tiered pricing system. The revised tender, which has removed the tiered pricing structure, will be for four years starting from April 2018
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Section 2 - Impacts, options and recommendations

See sections 3, 4 and 5 for background analysis

Options Appraisal and Recommendations:	
Social/equality impacts (summary):	Fostering is a regulated activity, independently inspected by Ofsted. All foster placements are subject to matching child’s needs, specifically referencing age, gender, race, culture, religion and disability and a formal assessment of the carers abilities to meet these needs
Environmental impacts (summary):	Fostering is family based care, with negligible environmental impact
Economic impacts (summary):	Fostering has become increasingly professional and skilled, experienced foster carers are self-employed and can make a reasonable living out of fostering. The agencies also employ qualified social workers and support staff
Other impacts (partner agencies, services, DCC policies, possible ‘unintended consequences’):	Family based care is the preferred model of care for most children in care, the fostering market is a competitive market and, with a good range of fostering agencies, sufficiency in family based care will be maintained. With a good range and choice of skilled and experienced foster carers, placement stability and matching will be improved and there will more opportunity to prevent children moving into residential care and to “step down” to foster care where appropriate

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<p>How will impacts and actions be monitored?</p>	<p>There will be regular contract monitoring meetings held quarterly with all fostering providers. Furthermore each independent fostering placement is subject to statutory CLA reviews and statutory social work monitoring visits where specific outcomes such as: educational, health and wellbeing, safeguarding, independence, reducing offending and positive engagement of the young person are monitored</p>
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Background Analysis

This section describes how relevant questions and issues have been explored during the options appraisal.

Section 3 - Profile and views of stakeholders and people directly affected

People affected:	Devon Children in care and care leavers
Diversity profile and needs assessment of affected people:	<p>In September 2017 there were 692 children looked after in Devon, 60% male and 40% female, this gender split is in line with national trends for children in care. The total 0-17 population in Devon is 143,555; Devon has a rate of 47/10,000 looked after children, which is below Statistical neighbours (53) and above “good” LA comparators (39).</p> <p>Of the looked after population: 272 were placed in in-house foster placements; 37 were with friends and family; 171 with Independent Fostering Agencies; and 57 in residential children’s homes. Children and young people placed with independent fostering agencies were aged between 0 and 17, with a small number age 18+ in staying put arrangements. The majority of children and young people with IFAs were age 9-16, which is also in line with national trends for children in care.</p> <p>We know that foster care is required for disabled children and young people and from a range of ethnic backgrounds. Children in care have a range of religious beliefs, including those with no religion. Data is not currently collected on young people placed with IFAs who are LGBT+, but we would expect fostering agencies to recruit carers who can look after young people who are LGBT+ or who are unsure about their sexual orientation. Some young people in foster care will have come out, others may not yet be sure of their sexual orientation or may not have come out, hence all foster carers would be expected to be sensitive., Foster carers are recruited with a range of family backgrounds, including single people, couples married and unmarried, gay and straight and from all religious and racial backgrounds</p>
Other stakeholders (agencies etc.):	This is a Peninsula tender, therefore comprises Devon, Torbay Plymouth local authorities as one distinct geographical group and Somerset and Cornwall making up the other two
Consultation process and	Existing Fostering Providers have been widely consulted and this tender was substantially changed from the

results:	recent unsuccessful tender which did not deliver sufficient foster placements in response to feedback from Providers
Research and information used:	The development of the new contract for Independent fostering agencies has been informed by: previous contracts, monitoring meetings with IFAs; studies of sufficiency. Fostering is a highly regulated activity covered by Fostering regulations and inspected regularly by Ofsted

Section 4a - Social Impacts

Giving Due Regard to Equality and Human Rights

The local authority must consider how people will be affected by the service, policy or practice. In so doing we must give due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity and
- Foster good relations.

Where relevant, we must take into account the protected characteristics of age, disability, gender, gender reassignment, pregnancy and maternity, marriage and civil partnership, sexual orientation, race, and religion and belief.

This means considering how people with different needs get the different services they require and are not disadvantaged, and facilities are available to them on an equal basis in order to meet their needs; advancing equality of opportunity by recognising the disadvantages to which protected groups are subject and considering how they can be overcome.

We also need to ensure that human rights are protected. In particular, that people have:

- A reasonable level of choice in where and how they live their life and interact with others (this is an aspect of the human right to 'private and family life').

- An appropriate level of care which results in dignity and respect (the protection to a private and family life, protection from torture and the freedom of thought, belief and religion within the Human Rights Act and elimination of discrimination and the promotion of good relations under the Equality Act 2010).
- A right to life (ensuring that nothing we do results in unlawful or unnecessary/avoidable death).

The Equality Act 2010 and other relevant legislation does not prevent the Council from taking difficult decisions which result in service reductions or closures for example, it does however require the Council to ensure that such decisions are:

- Informed and properly considered with a rigorous, conscious approach and open mind, taking due regard of the effects on the protected characteristics and the general duty to eliminate discrimination, advance equality and foster good relations.
- Proportionate (negative impacts are proportionate to the aims of the policy decision)
- Fair
- Necessary
- Reasonable, and
- Those affected have been adequately consulted.

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Characteristics	<p>In what way can you eliminate or reduce the potential for direct or indirect discrimination, harassment or disadvantage?</p> <p>Are there any lawful, reasonable and proportionate, unavoidable negative consequences?</p>	<p>In what way can you advance equality (meet needs, encourage participation, make adjustments for disabled people, ‘close gaps’).</p> <p>In what way can you foster good relations between groups (tackle prejudice and promote understanding), if relevant?</p>
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All residents (include generic equality provisions):	All children placed in Foster Care are subject to detailed matching of the child's needs, specifically referencing age, gender, race, culture, religion, health, educational and disability needs and a formal assessment of the carers abilities to meet needs																			
Age:	<p>11.8 million or 28.3% of population in England are under 18; in Devon 143,555 (18.4%) are under 18. (ONS Census 2011)Those placed in Peninsula placements are broadly aged 10-17, with majority aged 13 to 16 and a small number under 10. The age and gender split of Devon Children in Care as of Sept 2017 is:</p> <table border="1" data-bbox="521 679 1267 892"> <thead> <tr> <th>Devon</th> <th>0-1</th> <th>1-5</th> <th>6-10</th> <th>11-15</th> <th>16+</th> </tr> </thead> <tbody> <tr> <td>Boys</td> <td>25</td> <td>43</td> <td>86</td> <td>158</td> <td>102</td> </tr> <tr> <td>Girls</td> <td>13</td> <td>31</td> <td>58</td> <td>104</td> <td>72</td> </tr> </tbody> </table> <p>At this point in the development of the programme there will be no adverse impact on the group .We aim to be sensitive to unforeseen negative impact and will monitor and respond on a case by case basis.</p>	Devon	0-1	1-5	6-10	11-15	16+	Boys	25	43	86	158	102	Girls	13	31	58	104	72	<p>Ensure a clear specification about catering to the specific needs of adolescents.</p> <p>Monitor and review taking into consideration cost expenditure and service user feedback and complaints.</p> <p>Track performance data trend by protected characteristics.</p> <p>Ongoing contract monitoring meetings will be held with providers by Peninsula authorities to foster good relations and ensure needs are met</p>
Devon	0-1	1-5	6-10	11-15	16+															
Boys	25	43	86	158	102															
Girls	13	31	58	104	72															
Disability (incl. sensory, mobility, mental health, learning disability, ill health) and carers of	At least 5,000 (3.1%) Devon children are disabled. 3800 have a learning disability and 2200 have autistic spectrum disorder. There are 9,263 with a mental health disorder and 15 to 25 of these are in inpatient tier 4 care at any one time. In 2015 to 2016	<p>The service specifications will be developed to ensure a focus on emotional and physical health and wellbeing, as well as links to other specialist services.</p> <p>We will track performance data through regular contract</p>																		

<p>disabled people:</p>	<p>122 Male and 501 Females attended A&E as a consequence of self-harm with the peak age 15 to 19.</p> <p>There will be no adverse impact on the group. The provision will address the needs, including mental health needs, learning disabilities and behavioural. Children in care are able to access to CAMHS to address concerns around self-harm. Fostering agencies also employ their own therapists to provide additional support</p>	<p>monitoring processes. Providers are aware of escalation processes. Devon provides dedicated therapeutic support to all children in foster care, particularly if the placement is at risk of disruption</p>
<p>Culture and ethnicity: nationality/national origin, skin colour, religion and Belief:</p>	<p>According to the 2011 census the majority of people in Devon (94.9%) are from a White British ethnic background, which is higher than the South West (91.8%) and England (79.8%) proportions. Around 38,000 in Devon are from a non-White British background. The largest ethnic minority group is 'White: Other', which tends to be European in origin.</p> <p>With regards to religion the 2011 census records for Devon:458,778 Christian; 2,727 Buddhist; 818 Hindu; 636 Jewish; 3,091 Muslim; 263 Sikh; 4261 Other; 213,045 none; and 62,732 not stated.</p> <p>It is well documented that there are a number of needs that families from BME communities face, such as discrimination, isolation, hate crime and lack of culturally sensitive services</p> <p>At this point there will be no adverse impact on the group. We will monitor and respond on a case by</p>	<p>Fostering providers are expected to consider culture and ethnicity in matching criteria. The specifications will ensure there is a duty for the provider to recognise and support the cultural and religious needs of the child or young person placed.</p> <p>Performance data will track trends by protected characteristics. This will be monitored through regular contract monitoring meeting and quality assurance.</p> <p>The service specifications will ensure that there is a duty for the provider to recognise and support the cultural and religious beliefs of the child or young person placed</p>

<p>Sex, gender and gender identity (including men, women, non-binary and transgender people), and pregnancy and maternity (including women’s right to breastfeed).</p>	<p>case basis</p> <p>Of the looked after population (Sept 2017) the table shows the break-down of gender, non-binary and transgender for Devon’s looked after population</p> <table border="1" data-bbox="521 339 1267 692"> <thead> <tr> <th>Devon</th> <th>0-1</th> <th>1-5</th> <th>6-10</th> <th>11-15</th> <th>16+</th> </tr> </thead> <tbody> <tr> <td>Boys</td> <td>25</td> <td>43</td> <td>86</td> <td>158</td> <td>102</td> </tr> <tr> <td>Girls</td> <td>13</td> <td>31</td> <td>58</td> <td>104</td> <td>72</td> </tr> <tr> <td>Non Binary</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> </tr> </tbody> </table> <p>The number of children aged 10 or under who have been referred to the NHS because of transgender feelings has more than quadrupled in five years, according to 2015 figures.</p> <p>The Tavistock and Portman NHS Trust is the UK’s only centre specialising in gender issues in under 18s reports that the number of under 11s referred to the unit has risen from 19 in 2009-10 to 77 in 2014-15.</p> <p>We would therefore expect that a small number of children and young people in care could raise transgender issues during their time in placement, which we will need to be prepared for.</p>	Devon	0-1	1-5	6-10	11-15	16+	Boys	25	43	86	158	102	Girls	13	31	58	104	72	Non Binary	0	0	0	0	0	<p>At this point there will be no adverse impact on the group. We will monitor and respond on a case by case basis. The service specifications will ensure and age/gender appropriate service response.</p> <p>Performance data trends will be tracked by protected characteristics and there will be ongoing quarterly contract monitoring with providers and quality assurance processes</p>
Devon	0-1	1-5	6-10	11-15	16+																					
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<p>Sexual orientation and marriage/civil partnership:</p>	<p>There is no precise local data on numbers of Lesbian, Gay and Bisexual (LGB) people in Devon,</p>	<p>At this point there will be no adverse impact on the group. We will monitor and respond on a case by case basis. The</p>																								

	but it is nationally estimated at between 5 – 7%. This would mean that approx. 1,155 people aged 16-17 in Devon are LGB and 5,100 aged 18-25.	service specifications will ensure and age/gender appropriate service response. Performance data trends will be tracked by protected characteristics and there will be ongoing quarterly contract monitoring with providers and quality assurance processes
Other socio-economic factors such as families, carers, single people/couples, low income, vulnerability, education, reading/writing skills, 'digital exclusion' and rural isolation.	Foster carers provide care for children from all socio-economic backgrounds. Foster carers themselves are recruited from single carers, couples, same sex couples. Foster carers are located in urban and rural areas	We will make sure that independent fostering agencies on the contract are considering equality and diversity in their recruitment practices. This will include both considering the needs of foster carers from a wide range of backgrounds, and making sure that the foster carers they recruit are able to look after young people from a wide range of backgrounds.
Human rights considerations:	The service recognises article 14 of the Human Rights Act- The right to receive Equal Treatment and prohibits discrimination including sex, race, religion, and economic and social status in conjunction with the Equalities Act which includes age and disability. All staff and service users will continue to be treated fairly and their human rights will be respected. No adverse impact on human rights has been identified.	

Supporting independence, wellbeing and resilience?

Give consideration to the groups listed above and how they may have different needs.

In what way can you support and create opportunities for people and communities (of place and interest) to be independent, empowered and resourceful?	Vulnerable children and young people are often disadvantaged by the circumstances of their childhoods, emotionally and physically, with fewer opportunities. The fostering tender is part of ongoing work with tries to redress this gap by ensuring the child has access to a safe, warm, nurturing place to live. Furthermore foster care is family and community based and carers are expected to support the young person to develop independence skills and where
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	appropriate represent the child's voice in all formal review meetings
In what way can you help people to be safe, protected from harm, and with good health and wellbeing?	Foster carers are part of a highly regulated service and are closely monitored through statutory visits, annual reviews and CLA reviews to ensure that the child's needs around staying safe, being healthy, education and wellbeing are addressed
In what way can you help people to be connected, and involved in community activities?	Fostering is family based care in local communities and carers are expected to support the child to be involved and access the full range of community activities according to their interests

Section 4b - Environmental impacts

An impact assessment should give due regard to the following activities in order to ensure we meet a range of environmental legal duties.

The policy or practice does not require the identification of environmental impacts using this Impact Assessment process because it is subject to (please select from the table below and proceed to the 4c, otherwise complete the environmental analysis table):

Page 11	Devon County Council's Environmental Review Process for permitted development highway schemes.
	Planning Permission under the Town and Country Planning Act (1990).
	Strategic Environmental Assessment under European Directive 2001/42/EC "on the assessment of the effects of certain plans and programmes on the environment".

	Describe any actual or potential negative consequences. (Consider how to mitigate against these).	Describe any actual or potential neutral or positive outcomes. (Consider how to improve as far as possible).
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Reduce waste, and send less waste to landfill:	N/A	N/A
Conserve and enhance biodiversity (the variety of living species):	N/A	N/A
Safeguard the distinctive characteristics, features and special qualities of Devon's landscape:	N/A	N/A
Conserve and enhance the quality and character of our built environment and public spaces:	N/A	N/A
Conserve and enhance Devon's cultural and historic heritage:	N/A	N/A
Minimise greenhouse gas emissions:	N/A	N/A
Minimise pollution (including air, land, water, light and noise):	N/A	N/A
Contribute to reducing water consumption:	N/A	N/A
Ensure resilience to the future effects of climate change (warmer, wetter winters; drier, hotter summers; more intense storms; and rising sea level):	N/A	N/A

Other	N/A	N/A
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Section 4c - Economic impacts

	Describe any actual or potential negative consequences. (Consider how to mitigate against these).	Describe any actual or potential neutral or positive outcomes. (Consider how to improve as far as possible).
Impact on knowledge and skills:	No negative consequence	Foster carers are expected to attend following training: Skills to Foster Training, Equality and Diversity, Safeguarding, first aid
Impact on employment levels:	No negative consequence	The Peninsula Fostering Framework Contract promotes a range of Fostering Providers, larger and smaller, to establish their office base and staff in Devon and the wider South West peninsula
Impact on local business:	No negative consequence	The Fostering Tender promotes a range of Fostering Providers, larger and smaller, to establish their office base and staff in Devon and the wider South West peninsula

Section 4d -Combined Impacts

Linkages or conflicts between social, environmental and economic impacts:	None identified that have a significant impact
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Section 5 - 'Social Value' of planned commissioned/procured services:

How will the economic, social and environmental well-being of the relevant area be improved through what is being proposed? And how, in conducting the process of procurement, might that improvement be secured?	The Fostering Tender promotes a range of Fostering Providers, larger and smaller, to establish their office base and staff in Devon and the wider South West peninsula. Encouraging a mixed market of in house fostering provision and independent helps to ensure a sufficient range of skilled and diverse fostering households, to ensure that most children in care are looked after in family based placements.
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