


## LONDON BOROUGH OF WALTHAM FOREST

Meeting / Date	<b>Cabinet</b> <b>3 November 2022</b>	
Report Title	<b>Pan-London Vehicle for Commissioning</b>	
Cabinet Portfolio	Councillor Alistair Strathern, Portfolio Lead Member for Children & Young People	
Report Author/ Contact details	Daniel Phelps, Corporate Director Children's Social Care People 02084965050, Daniel.phelps@walthamforest.gov.uk	
Wards affected	All	
Public Access	Open	
Appendices	Appendix 1 - PLV Legal Structure Appendix 2 - Financial Modelling	

### 1. SUMMARY

- 1.1 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).
- 1.2 There are few children requiring secure welfare provision and in the last 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.

- 1.3 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")'.
- 1.4 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

## **2. RECOMMENDATIONS**

2.1 Cabinet is recommended to:

- 2.1.1 Agree that the London Borough of Waltham Forest becomes a member of a not-for-profit company, limited by guarantee, provisionally to be known as the Pan London Vehicle, to:
  - develop and then oversee the running of London's secure children's home provision for a five-year period from 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2028, with a break-point after two years once the refreshed business case has been developed to include service pricing structure, commissioning approach, practice model and location, at a fixed annual cost of £20K, subject to inflation adjustment and
  - collaborate with other PLV members on future joint commissioning programmes.
- 2.1.2 agree that the London Borough of Waltham Forest commits in principle to joint oversight and risk/benefit sharing, through the PLV, of the secure children's home provision, for a five-year period to 31<sup>st</sup> March 2028, including the build, service development and service commissioning phases, subject to ratification after the revision of the SCH business case, and renewable on a ten yearly cycle thereafter, with break-point after five years.

2.1.3 delegate authority to the Strategic Director People in consultation with Strategic Director Place to:

- finalise the legal documents required to set up, join and run the PLV and
- make the final determination on the Council's membership of the PLV, following completion of the revised SCH business case and, if appropriate, enter into all the legal agreements, contracts and other documents on behalf of the Council required to implement and run any aspect of the PLV arrangements.

### **3. PROPOSALS**

3.1 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. 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.

3.2 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.

3.3 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 – over three years 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.

3.4 Pan-London analysis pre-Covid (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. Further analysis post-Covid has indicated a fall in numbers, with an average of 12 children placed in the eight-month period between December 2021 and July 2022. The reduction is in part due to a national shortage of provision, with children being referred but no places being available and some local authorities choosing not to make referrals given the lack of provision. In the eight months between December 2021 and July 2022, 24 children were referred but not offered a place, requiring the local authorities to seek alternative provision. The alternatives that are then secured are very costly, often in excess of £10k per week and up to £50k per week.

- 3.5 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; <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.
- 3.6 The need for provision was also highlighted through Her Majesty's Chief Inspector's Annual Report to Parliament (2020) which stated –  
*The national capacity of Secure Children's Homes remains a significant concern, with approximately 20 children awaiting a placement on any given day and the same number are placed in Scottish secure units. This increases pressure to use unregulated provision. Provision is not always in the right place, so that some children are placed a long way from their home and family.*
- 3.7 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.
- 3.8 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

- 3.9 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 and funding has been allocated to develop the required provision for London children.
- 3.10 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;
  - 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.
- 3.11 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.

## 4. OPTIONS & ALTERNATIVES CONSIDERED

- 4.1 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

4.2 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

4.3 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

4.4 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 YOT teams across London and the lack of a joined-up approach across London.
- Specialised community team - rejected due to the risk of duplicating the role of Community Forensic CAMHS teams and fragmenting care pathways.

4.5 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.

## **5. SUSTAINABLE COMMUNITY STRATEGY PRIORITIES (AND OTHER NATIONAL OR LOCAL POLICIES OR STRATEGIES)**

- Placeholder- to develop
- Life Chances- Best Start in Life- Families I the Heart of our Place
- Sufficiency strategy
- Safer Waltham Forest
- Placeholder- Awaiting further information from London Councils

## **6. CONSULTATION**

- 6.1 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 paragraphs 3.9 and 3.10.
- 6.2 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.

## **7. IMPLICATIONS**

### **7.1 Finance, Value for Money and Risk**

- 7.1.1 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.
- 7.1.2 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.
- 7.1.3 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

7.1.4 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.

7.1.5 The financial commitment by each local authority is £20k per year for 5 years from 1st April 2023 to 31st March 2028 for the operating costs of the PLV, with an opt-out facility after two years informed by the revised business case, detailed model and location(s). 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.

7.1.6 Provision at Secure Children's Homes costs between £7k and £9.5k 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.

7.1.7 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

7.1.8 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.

7.1.9 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.

7.1.10 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.

7.1.11 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.

7.1.12 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.

7.1.13 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.

7.1.14 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.

## 7.2 Legal

7.2.1 The following models were assessed to determine the best approach for risk-sharing, commissioning and oversight of the new provision:

- A lead London local authority
- An existing pan-London entity
- A new pan-London entity
- Joint venture with a third party

7.2.2 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.

7.2.3 The following options have been considered as the legal basis for setting up an running the PLV:

- Company Limited by Shares
- Company Limited by Guarantee
- Limited Liability Partnership
- Charitable Status
- Community Interest Company

7.2.4 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.

7.2.5 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.

7.2.6 Tax implications for the agreed structure will need to be fully understood, so as to avoid unnecessary VAT consequences.

7.2.7 The legal basis, membership and decision-making processes are set out in more detail in Appendix 1.

### **7.3 Equalities and Diversity**

- 7.3.1 These proposals are aimed at improving a range of outcomes for [add LA name]'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 (BAME) groups who, based on Pan-London analysis, are overrepresented in secure welfare provision.
- 7.3.2 As well as securing better outcomes for Waltham Forest's BAME 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.
- 7.3.3 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 [add LA name]'s children and young people are taken into consideration.
- 7.3.4 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.
- 7.3.5 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.

### **7.4 Sustainability (including Climate Change, Health, Crime and Disorder)**

- 7.4.1 The proposal to agree that the London Borough of Waltham Forest becomes a member of a not-for-profit company, limited by guarantee, provisionally to be known as the Pan London Vehicle does not currently have any sustainability implications.
- 7.4.2 As part of the partnerships delivery work moving forward once established, this could result in sustainability implications depending on where and how the accommodation is sourced, constructed and run. These points will be addressed through any procurement exercises or subsequent Cabinet reports.

### **7.5 Council Infrastructure**

- 7.5.1 The proposal to agree that the London Borough of Waltham Forest becomes a member of a not-for-profit company, limited by guarantee,

provisionally to be known as the Pan London Vehicle does not currently have any council infrastructure implications.

- 7.5.2 As part of the partnerships delivery work moving forward once established, this could result in Council infrastructure implications depending on where and how the accommodation is sourced, constructed and run. These points will be addressed through any procurement exercises or subsequent Cabinet reports.

**BACKGROUND INFORMATION (as defined by Local Government (Access to Information) Act 1985)**

None