

Notice of KEY Executive Decision

Subject Heading:	Secure Children's Home for London and Pan-London Commissioning Vehicle
Decision Maker:	Councillor Ray Morgon - Leader
Cabinet Member:	Councillor Oscar Ford - Cabinet Member for Children and Young People
SLT Lead:	Tara Geere- Director of Childrens Service
Report Author and contact details:	Priti Gaberria, 01708 431257, priti.gaberria@havering.gov.uk
Policy context:	The creation of a Pan London Commissioning Vehicle (PLV) supports the vision of the Corporate Parenting Strategy for Looked After Children 2019-2022 to achieve the outcomes our children and young people need, with the best placement at the right time for the most competitive price.
Financial summary:	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. The expected maximum contract value is £100,000 over 5 years, excluding uplifts.

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Reason decision is Key	This decision is considered to be key as it requires the Authority to become part of a company that will be owned by participating local authorities
Date notice given of intended decision:	1/3/2023
Relevant OSC:	People's OSSC
Is it an urgent decision?	No
Is this decision exempt from being called-in?	Yes

The subject matter of this report deals with the following Council Objectives

People - Things that matter for residents

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place. x

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The Leader of the Council is recommended to agree that The London Borough of Havering:

1. Agree in principle and subject to the considerations set out at 3 below to become a member of a not-for-profit company, limited by guarantee, provisionally to be known as the Pan London Vehicle, to:
 - a. develop and then oversee the running of London's secure children's home provision for a five-year period from 1st April 2023 to 31st 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 SCH's location is confirmed
 - b. With membership 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
 - c. collaborate with other PLV members on future joint commissioning programmes.
2. Commits in principle to joint oversight and risk/benefit sharing of the secure children's home provision, through the PLV, for a five-year period to 31st 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 SCH business case, and renewable on a ten yearly cycle thereafter, with break-point after five years.
3. Delegates authority to The Director of Children's Services, in consultation with the s.151 Officer and the Lead Member for Children and Young People to 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. Subject to all relevant considerations including: cost of membership; of exit; arrangements for share of risk and liabilities.

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AUTHORITY UNDER WHICH DECISION IS MADE

Havering Council's Constitution 3.2 Executive Functions

The Leader of the Council is responsible for arranging for the exercise of all executive functions and may by way of written notice delegate Executive functions to:

1. Cabinet
2. A committee of the Cabinet
3. Individual Cabinet Members
4. Staff
5. Joint Committees

And may exercise any Executive functions personally provided notice is given to the Proper Officer.

STATEMENT OF THE REASONS FOR THE DECISION

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).

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.

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")'.

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

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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.

1. Why does London need Secure Welfare Provision?

- 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. 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.
- 1.2. 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.
- 1.3. 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.
- 1.4. 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.
- 1.5. Snapshot data taken at the end of each month, in the period between December 2021 and September 2022 shows that there are, 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, in the same period, the data shows that 29 referrals were made but a placement was not offered. In a September 2022 survey,

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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.

- 1.6. 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.
- 1.7. 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.
- 1.8. 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.
- 1.9. 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.
- 1.10 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.
- 1.11 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.’*

2. The proposed provision

- 2.1. 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.
- 2.2. 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.
- 2.3. 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.
- 2.4. 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)

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- 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
- 2.5. 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
- 2.6. 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
- 2.7. 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.
- 2.8. 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

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is reviewing progress against gateway milestones, one of which is the commitment of local authorities in London. This report seeks that commitment.

2.9. 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.
- Inputting into and approving a refreshed business case which will
 - revisit and update the 'case for change',
 - provide up to date and well-developed costings, informed by the final model of practice and operating model,
 - 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.

2.10 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.

3. Proposed legal vehicle to share risks and benefits

3.1. 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

3.2. 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

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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.

- 3.3. 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.
- 3.4. Tax implications for the agreed structure will need to be fully understood, so as to avoid unnecessary VAT consequences.
- 3.5. The legal basis, membership and decision-making processes are set out in more detail in Appendix 1.

4. Finance and resources

- 4.1. 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
- 4.2. 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.
- 4.3. 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
- 4.4. 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.

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- 4.5. The financial commitment by each local authority is £20K per year (payable only once the provision has launched - planned launch currently 2025/26) 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.
- 4.6. 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.
- 4.7. 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
- 4.8. 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.
- 4.9. 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.
- 4.10. The modelling demonstrates most scenarios generate a surplus to support future provision. The risk of the lower occupancy scenarios being realised is

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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.

- 4.11. 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.
- 4.12. 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.
- 4.13. 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.
- 4.14. 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.

5. Benefits and risks

- 5.1. 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:
 - Development of secure provision in London increasing capacity locally and reducing the overall national shortfall in provision
 - Local provision for children with accompanying step-down arrangements will improve outcomes and reduce cost of future provision
 - Reduced staff travel time to meetings and visits and reduced transport costs
 - Reduced reliance on private care placement market and high-cost provision
 - Priority access to the provision
 - Access to provision at cost, whereas others will be charged a higher fee, to include cost of voids etc.
 - Opportunity to shape the future Secure Children's Home and step-down provision and be part of ongoing governance

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- Opportunity to be part of wider joint commissioning through the PLV in future such as addressing the shortfall in high-cost low incidence provision

5.2. 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 / 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	Ofsted use enforcement powers proportionately and there are a range of options open to them before the closure of

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safeguarding or child protection concerns	<p>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>
Permanent closure of the provision	<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>
Adverse publicity/Reputational damage from failure of the centre linked to the above or other factors	<p>Proactive communications, strong practice model, safeguards, rigorous performance reviews and effective oversight, management and staffing will be implemented to minimise this risk.</p>

6. Progress to date

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- 6.1. The business case for new provision has been developed, including evidence of need, by London local authorities, with Health and the Mayor's Office for Policing and Crime (MOPAC).
- 6.2. In response to the business case developed for an SCH in London, the Department for Education has allocated c£3m of development funds, with c£50m+ of capital funding subject to progress in against key milestones.
- 6.3. A Secure Children's Home and Community Project Steering Group has been established, comprising London Directors of Children's Services, together with Health, Mayor's Office for Policing and Crime (MOPAC) and the Department for Education. This group is providing oversight until the formation of the proposed Pan-London Vehicle.
- 6.4. A site search has been conducted, based on the statutory criteria for a Secure Children's Home. From a long list of over 400 sites initially considered, two preferred options have been identified, one of which is being taken forward first for more detailed assessment.
- 6.5. A practice model for the provision is being developed by a multi-agency group which will provide an innovative approach to working with children, young people and their families / networks.

7. Commitment sought

- 7.1. 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.
- 7.2. 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.
- 7.3. 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.
- 7.4. Commitment is sought to participate in joint commissioning arrangements.
- 7.5. Councils are being requested to confirm commitment in principle before end April 2023. This is because the participating Councils wish to progress arrangements at the beginning of May 2023. A decision as to whether the Council wishes to participate is therefore required urgently.

8. Next steps

- 8.1. 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.

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- 8.2. 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.
- 8.3. 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.

OTHER OPTIONS CONSIDERED AND REJECTED

Option1: Do Nothing- This option would involve not accepting the recommendation to enter into the legal agreement. This option would mean that we continue to utilise high cost placements for this cohort and at a distance from Havering through spot purchasing arrangements and this presents a high likelihood of increasing placement cost.

Option 2: To separately commission placements via tendering for a contract is not a realistic option given the specialist nature of the service and volume of placements per year. This option is rejected for the same reasons given above.

PRE-DECISION CONSULTATION

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 2.1 and 2.2.


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.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Priti Gaberria

Designation: Commissioning Programme Manager

Signature:



Date: 12.04.23

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has power to enter into the Pan London Vehicle (PLV) as a shareholder limited by guarantee under the general power of competence contained in section 1 of the Localism Act 2011 which allows the Council to do anything that an individual may do subject to any statutory constraints on the Council's powers. None of the constraints on the Council's s.1 power are engaged by this decision.

The proposed arrangement would facilitate discharge of the Council's functions and duties under the Children Act 1989. The Council may therefore also enter into the PLV arrangement under s111 Local Government Act 1972 which allows the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

Shareholders within a company limited by guarantee are only liable to the extent of the guarantee given. In this case, it is suggested that the guarantee would be £1 or similar nominal amount. The Council's liability for debts and for any actions taken against the PLV would be limited to the guaranteed amount. (it is expected that the PLV, as with any company vehicle would carry insurance against losses and causes of action taken against it).

In the above context, it should be noted that responsibility for placement of a child or young person in secure accommodation sits with the placing authority. Notwithstanding availability of PLV accommodation, placement decisions will (and must) remain in compliance with the relevant statutory requirements and considerations. Equally, any liability associated with those placement decisions sits with the placing authority and not collectively with the PLV participants.

Whilst the Council's costs and liabilities related to its shareholder membership of the PLV are limited as set out above by statute, further contractual responsibilities and liabilities relating to the PLV are dictated via the shareholder agreement. It is proposed that each founding council become a shareholding member of the PLV for a period of 5 years, provided that each council may opt to leave after 3 years (following finalisation of the secure children's homes (SCH) business case). This break option will be incorporated into the shareholders' agreement.

Following the initial 5 year period, each council may decide to remain a member on a cyclical 10 year basis (each with a 5 year break clause) or to leave. Provision will be made within the articles and shareholders' agreement for both leaving arrangements and joining arrangements if additional authorities wish to join the PLV.

It is proposed that each member council will contract a financial commitment to share the running costs of the PLV and the secure accommodation. This includes in the event that the PLV is loss making.

It is understood that PLV articles and shareholders' agreement are in the process of being drafted. In finalising these legal documents, member authorities will decide on the

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notice period required to exercise any break clauses and will agree the penalties for breaching any of the PLV's legal agreements.

These final details together with final proposals for risk apportionment and cross indemnities will be a material consideration as to whether to proceed with membership of the PLV.

Reference is made to including within the PLV's remit other key pan-London commissioning arrangements. Further detail will be required during the life of the PLV and as such proposals arise however such matters may be key decisions which dependent on their nature may require consideration and approval at Executive level. Consequently, the PLV articles and shareholders agreement will require drafting to provide that participation in such arrangements is subject to Council internal governance.

The Council's legal team will provide further detailed advice to inform any delegated decision.

FINANCIAL IMPLICATIONS AND RISKS

The proposed company structures and draft business case for the proposal can be seen in Appendix 1 and Appendix 2 and this outlines the original modelling of financial scenarios for the LPV from 2019, uplifted for CPI. These are summarised in the main body of the report. This will need to be updated in the final business case which will need to demonstrate the viability.

The development costs of the LPV (some £3m) are being funded by the DfE and are held with the lead Borough at present. The capital cost of construction is estimated at £50m+ and commitment has been received for government to fund those costs. It is assumed that the construction could be managed by the LPV but that would need to be clarified in the agreement.

The business case will be refreshed to reflect the final position in terms of member councils, costs and placements, and the legal model for the LPV. Once the final business case is produced the partner boroughs will need to undertake due diligence on the company structures and the taxation implications to ensure a financially sustainable solution and best value from the proposal. The accounting treatment of the vehicle will be dependent upon the final agreement. The apportionment of risk across the partner councils will also be clarified as the contractual documents are drafted. This due diligence will form part of the evaluation needed for the sign off by the s151 officer outlined in recommendation 3.

The savings in placement costs to the council would result from using the LPV facility instead of the higher rates currently being paid for the care of these children in the market. The cost savings would lead to reductions in pressures on the general fund flagged as part of the MTFS. At any time the savings figure for Havering will depend upon the number of places utilised in the facility.

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The proposal is for an annual contribution to running cost of £20,000 to be made by each borough to cover the operating cost of the LPV. The adequacy of this sum will only be confirmed when the final number of boroughs taking part is known and the operating costs in the business plan are refreshed. There is a commitment however to share the costs of the LPV including cover of any operating losses, so this may vary from the initial £20,000 in any given year. The treatment of operating surpluses of the LPV should also be considered as part of the shareholder agreement. The contract review dates within the agreement allow the constant review of the commitment. The performance of the LPV should be monitored to ensure the business operation remains sustainable.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

These proposals are aimed at improving a range of outcomes for Havering'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.

As well as securing better outcomes for Havering'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.

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 Havering's children and young people are taken into consideration.

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.

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 AND WELLBEING IMPLICATIONS AND RISKS

Children who require secure accommodation represent the most vulnerable children in our society, when children pose a risk to themselves or others, and no other type of placement can keep them safe. Their complex needs include: speech and language problems; physical and learning disability; severe trauma; mental health issues such as anxiety, depression and post-traumatic stress disorder; and behavioural disorders such as ADHD. This is the case whether they enter via a justice or welfare pathway with, for example, 52% of welfare and 46% of justice referrals presenting a risk of self-harm.

In 2019, there were 13 Secure Children's Homes (SCHs) in England, providing a total of 206 beds; 6 SCHs were for welfare children only, 2 were justice children only and 5 were mixed. With such a distinct lack of specialist placement provision, there are a number of concerns about children's health and welfare.

Firstly, with such limited numbers of placements, the wellbeing of a child placed far from their normal home/place of residence could be significantly impacted. This PVL scheme offers an opportunity for secure placement for children from London within London, and therefore likely closer to home.

Secondly, as a potential negative impact of being placed in secure accommodation, concerns were raised regarding placing children from either 'welfare' or 'justice' routes who pose a potential risk of harm to others within the same accommodation. However, a study by Government Social Research and DfE (2021) concluded that placing children from the justice and welfare systems together in mixed SCHs did not increase the risk of sexual abuse.

Provision of such accommodation would likely have a positive impact overall on the health and welfare of children requiring secure housing. Access to support services such as mental health intervention is likely to have a positive impact on those who experienced mental health, self-harm or attempted suicide before referral to secure accommodation. The consistent, safe and regulated environment is also likely to reduce residents' level of anxiety and uncertainty, allowing them to engage in services they had previously been absent from, such as education, due to the chaotic nature of their lives.

Provision of additional local accommodation is also likely to have a positive impact on the wellbeing of social service workers who frequently experience high levels of stress in seeking secure accommodation.

Overall, it is likely that provision of secure accommodation for these children with complex needs, closer to home, where they can access support services and education, is likely to have a positive impact on their health and wellbeing.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The recommendations made in this report do not give rise to any identifiable environmental and climate change implications or risks that would affect either the Council or residents.

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BACKGROUND PAPERS

Appendix 1: PLV legal structure and membership
Appendix 2: Financial modelling of the SCH and PLV

APPENDICIES

Key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed



Name: *CLLR RAY MORGAN*

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date: *20*
13/4/2023

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

<p>For use by Committee Administration</p> <p>This notice was lodged with me on _____</p> <p>Signed _____</p>
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