

CABINET

2 DECEMBER 2014

GATEWAY 4 REPORT: FAMILY GROUP CONFERENCE SERVICE

Portfolio Holders: Councillor Mike O'Brien, Children's Services (Lead Member)
Councillor David Brake, Adult Services

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SUMMARY

This report provides an update as to the progress of the contract currently delivered through the supplier(s) as highlighted within 1.1 of this Report.

This Gateway 4 Report is submitted to the Cabinet setting out the outcome of the Family Group Conference (FGC) review. The Gateway 4 report was presented to the Children and Adults Directorate Management Team on the 28 October 2014 and the Procurement Board on 5 November 2014.

1. BACKGROUND INFORMATION

1.1 Contract Background Information

1.1.1 A Family Group Conference is family led approach that enables family members to reach decisions based on the best interests of a child or vulnerable adult who is at risk. Young people and vulnerable adults are normally involved in their own Family Group Conference, although often with support from an advocate. It is a voluntary process and families cannot be forced to have a Family Group Conference.

1.1.2 Families, including extended family members, are assisted by an independent FGC coordinator to prepare for the meeting. At the first part of the meeting, social workers and other professionals set out their concerns and what support could be made available. In the second part of the meeting family members meet on their own to make a plan for the child/adult. The family should be supported to carry out the plan, unless it is not considered to be safe.

- 1.1.3 The Family Group Conference contract was awarded to Family Action. The duration of this contract is three years with the option to extend the contract for a period of two years. The contract started 18 July 2012 and ends on 17 July 2015, not including the two-year extension.
- 1.1.4 The Service Provider, Family Action was originally asked to provide the following:
- A minimum of 4 children's services conferences per calendar month.
 - A minimum of 1 conference per calendar month in relation to protecting Vulnerable Adults – this was a one year pilot running from July 2012 to June 2013, and was extended for a further year to June 2014.
 - Advocacy in relation to adult conferences when deemed necessary.
 - Additional conferences as agreed with the provider.
 - Access to conflict resolution when deemed necessary.
- 1.1.5 As a consequence of a low rate of referrals to the FGC service, the contract was varied and now comprises:
1. A minimum of 2 children's services conferences per calendar month (with effect from 1 April 2014). However, no savings were made as a consequence of reducing the number of core contracts paid for quarterly in advance from 12 to 6 (see exempt appendix).
 2. An annual payment towards core infrastructure costs to allow for the provision of Vulnerable Adult conferences as required, rather than a block payment (with effect from 1 July 2014)
 3. Access to advocacy, additional conferences and access to conflict resolution remained as per the original contract.

2. STATUTORY/LEGAL OBLIGATIONS

2.1 Statutory/Legal Obligations

- 2.1.1 Whilst not a statutory service in its own right, the FGC supports the Authority's statutory safeguarding duties. The FGC model is an internationally recognised method of meeting the required outcomes for children on the edge of care.
- 2.1.2 Family Group Conferences are also recognised in court proceedings as providing solutions to a range of issues, including finding alternative carers for children.
- 2.1.3 The FGC model supports compliance with the Mental Capacity Act in supporting people to be central to decision-making processes. Additionally, the model supports increased safety of the vulnerable adult within improved family support and functioning.

3. BUSINESS CASE

3.1 Procurement Project Outputs / Outcomes

3.1.1 The following procurement outcomes/outputs identified as important at Gateway 1 to the delivery of this procurement requirement and identified as justification for awarding the contract at Gateway 3, have been appraised in the table below to demonstrate how the procurement contract and corresponding supplier(s) has delivered said outcomes/outputs.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?	How has contract award delivered outputs/outcomes?
<p>1. Where safe to do so, to reduce the number of children coming into the care of Medway Council.</p>	<p>Reduction of the number of children coming into the care of Medway Council</p>	<p>Children's Social Care</p>	<p>The measurement will be an on-going process.</p>	<p>From January 2013 to December 2013, of the 72 children who were the subject of a FGC, 30 had their involvement with CSC closed and one stepped down to CAF</p>
<p>2. Where safe to do so, children remain within the family</p>	<p>The outcome of the conference will be a child remaining with the family where safe to do so</p>	<p>Children's Social Care</p>	<p>At the outcome of the FGC and then on-going</p>	<p>Three families were identified to take on the role of kinship carers following a robust assessment. These families care for 6 children who would have entered local authority care if they had not come forward. The Family Group Conference also helped at least 7 children leave care because of the services their extended family were able to offer.</p>

<p>3. Comply with the courts' request to hold a FGC prior to court proceedings</p>	<p>Reduction in the time taken in court proceedings</p>	<p>Children's Social Care</p>	<p>On-going</p>	<p>The focus has shifted towards the use of FGCs at an earlier stage of concern</p>
<p>4. Compliance with Mental Capacity Act in supporting people to be central to decision-making process, when they have been the victim to an allegation of abuse</p>	<p>Increased involvement and satisfaction of customers who are subject to safeguarding adults' process</p>	<p>Adult Social Care</p>	<p>At the outcome of the FGC and then on-going</p>	<p>N/A as no conferences completed to date</p>
<p>5. Increased safety of vulnerable adult which increases family support and functioning</p>	<p>Protection (safety) plans are in place agreed by all members of FGC</p>	<p>Adult Social Care</p>	<p>At the outcome of the FGC and then on-going</p>	<p>As above</p>
<p>6. The Vulnerable adult protected as part of a FGC feels safer</p>	<p>Provider reports, client surveys and feedback</p>	<p>Adult Social Care</p>	<p>At the outcome of the FGC and then on-going</p>	<p>As above</p>

4. RISK MANAGEMENT

Risk Categorisation – The following risk categories have been identified as having a linkage to the procurement contract at this Gateway 4 stage.

1. Risk Category: Funding	Likelihood: Significant	Impact: Critical
Outline Description: Internal funding pressures lead to the need to reduce or terminate the funding		
Plans to Mitigate: The contract documents state that the contract is subject to funding availability		
2. Risk Category: Legal	Likelihood: Low	Impact: Critical
Outline Description: Delay in being granted court orders increased legal costs, and care costs of the child along with the risk of the authority being challenged by the courts.		
Plans to Mitigate: To follow the PLO (Public Law Outline), there is a requirement to carry out 'kinship assessment' prior to a court order being granted. Taking account of this requirement pre-empts this risk.		
3. Risk Category: Financial	Likelihood: Low	Impact: Significant
Outline Description: Monthly contract cost being paid even though service is not being used.		
Plans to Mitigate: Close performance monitoring and liaison with contracting service. Renegotiation of the contracted fee.		
4. Risk Category:	Likelihood: significant	Impact: Critical
Outline Description: Increased demand leads to waiting list		
Plans to Mitigate: Close monitoring of trends, and variation to contract to increase core costs paid in advance if necessary. This would enable the provider to increase permanent staffing to meet demand.		

5. POST PROJECT APPRAISAL/PERMISSIONS REQUIRED

5.1 Post Project Appraisal

Children's Family Group Conference Service

5.1.1 To address the low level of referrals made to the FGC service and improvement action plan was put in place from October 2013.

5.1.2 As a result there has been an increase in the number of referrals from Children's Social Care, and the number of subsequent conferences taking place. As outlined in fig.2, in quarter 2 of 2013 a total of 10 referrals to the service were made and in quarter 2 & 3 of 2014 referrals increased to 27.

5.1.3 The Action Plan included

- New targets for Family Action staff to increase the conversion rate from referral to conference from 60% to 70%
- A profile raising campaign, including articles in 'Let's Talk', the internal newsletter for CSC staff and face-to-face meetings
- Telephone 'consultations' freely available for CSC staff to discuss the FGC process
- A CSC senior manager was tasked with championing and overseeing the FGC service
- Embedding the expectation that referrals to FGC take place in the majority of cases, and any exception will require a strong rationale
- Monthly performance reports and face to face meetings between the provider, CSC and Partnership Commissioning.

5.1.4 Figure 1 compares the number of referrals and conferences between two similar periods in 2012/13 and 2013/14.

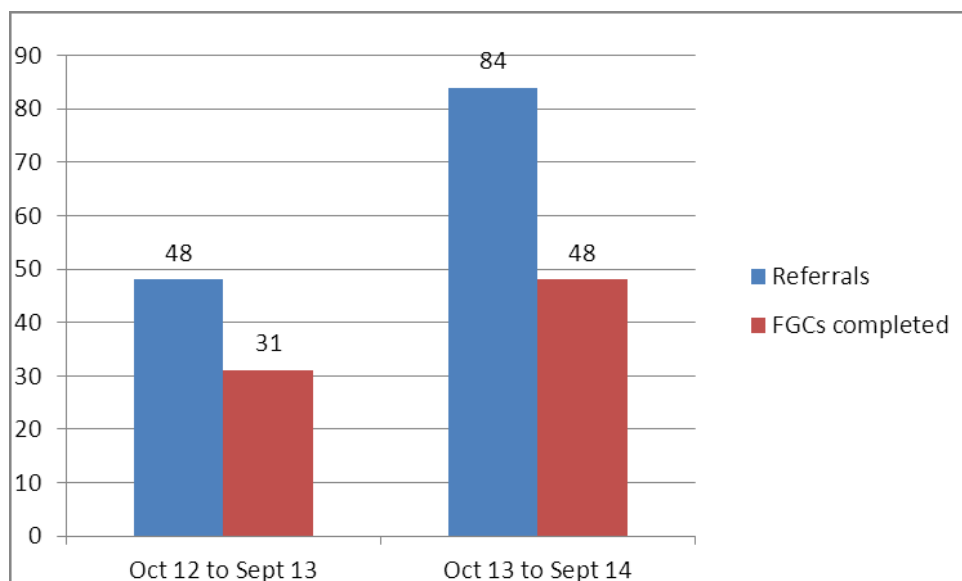


Figure 1

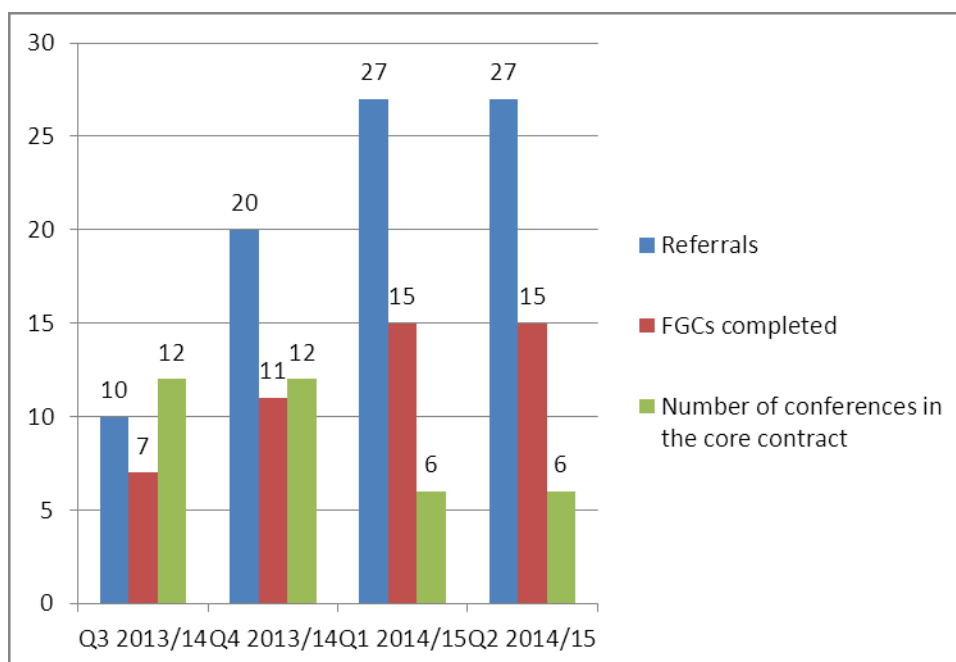


Figure 2

5.1.4 Figure 2 demonstrates that the increase in referrals and conferences has been steady over the last two quarters.

5.1.5 Ongoing work is taking place to further embed the use of FGCs as a routine part of practice, and the intention is to ensure that FGCs are promoted for use across all services and at an earlier stage of need. This is vital to ensure that children and young people receive the care appropriate to their needs before problems escalate, thereby also avoiding children coming into the care of the local authority and incurring unnecessary expenditure on high cost placements.

5.1.6 In November 2013 a previous Gateway 4 report was presented to Procurement Board and Cabinet that highlighted the number of delivered conferences was fewer than those contracted for, the Board requested that the contract be varied to reduce the number paid for in advance from 12 per quarter to 6 per quarter.

5.1.7 However, because of increased demand the service is now operating at a deficit as 60% of conferences are paid for in arrears. This affects the ability of the service to forward plan, e.g. recruit permanent staff, and a waiting list is now in place (15 referrals as of October 2014). It is very likely that the monthly demand for conferences will increase as the expectation on staff is that it will be exceptional for a case not to be referred for conference. Operating a waiting list will lead to increased costs for CSC, as a proportion of children who might otherwise have their needs met through a family plan may have to be taken into care.

Conflict Resolution

- 5.1.8 Twenty five conflict resolution cases were addressed during the period. Fourteen did not reach the stage of a joint meeting, for a variety of reasons including change of circumstances, the situation improved or the parties did not wish to engage.
- 5.1.9 Of the 11 proceeding to joint meetings, the main presenting issues were disputes between parents and older children and parental contact with the children post relationship breakdown.
- 5.1.10 Conflict resolution is sometimes used as a precursor to an FGC, and also as a 'step down' from a conference in order to help the family maintain positive relationships.
- 5.1.11 CSC intend to promote conflict resolution more widely as a tool to support families stay together where appropriate.

Vulnerable Adults

- 5.1.12 The contract was varied to allow for an infrastructure to remain in place so that FGCs could be spot purchased at a reduced rate should the need arise. At the time of writing this gateway 4 report, there is a potential conference being negotiated.

5.2 Permissions Required

- 5.2.1 To note the outcome of the improvement action plan and approve continuation of the contract.
- 5.2.2 To approve an increase to the core payment of Children's Social Care conferences from a payment of 6 conferences quarterly in advance to 12 conferences quarterly in advance, to allow the provider to recruit permanent staff and reduce the waiting list (starting from 01/01/15).
- 5.2.3 To approve the report for submission to Cabinet on 25 November 2014. Note: The Cabinet meeting date was subsequently moved to 2 December 2014.

6. CONTRACT MANAGEMENT

6.1 Contract Management

- 6.1.1 This contract will continue to be managed by the Partnership Commissioning Team.

7. CONSULTATION

7.1 Internal (Medway) Stakeholder Consultation

- 7.1.1 Children's Social Care and the Vulnerable Adults service have routinely been consulted as part of the performance management framework.

The Children's Social Care lead attends the monthly performance meetings.

7.2 External Stakeholder Consultation

7.2.1 The provider has completed a user survey as part of the contract.

8. PROCUREMENT BOARD

8.1 The Procurement Board considered this report on 5 November 2014 and supported the recommendations set out in paragraph 10 below.

9. SERVICE COMMENTS

9.1 Finance Comments

9.1.1 The procurement requirement and its associated delivery (as per the recommendations at Section 10, will be funded from existing revenue budgets.

9.1.2 Further detail is contained within Section 2.1 Financial Analysis of the Exempt Appendix.

9.2 Legal Comments

9.2.1 Although the value of this contract is in excess of the EU threshold for service contracts, the services to which the contract relates are Part B services under the Public Contracts Regulations 2006. This means that the Council does not have to comply with most of the Regulations, provided that it acts in a transparent way and treats all potential service providers equally and in a non-discriminatory way.

9.2.2 However, if the contract is varied to a material degree, there is a risk that the parties may be deemed to have entered into a new contract, which should have been advertised (to comply with the requirement for transparency and non-discrimination). If a successful challenge is brought, the contract variation may be ineffective.

9.2.3 The courts have held that variations to a contract could be deemed to give rise to a new contract when they are materially different in character from the original contract and demonstrate the intention of the parties to renegotiate the essential terms of that contract. This is likely to be the case where the variation extends the scope of the contract considerably (e.g. to encompass services not initially covered) or changes the economic balance in favour of the contractor in a manner that was not provided for in the terms of the initial contract. Where the proposed variations do not fall into these categories, it is unlikely that a new contract will be deemed to have arisen.

9.3 TUPE Comments

- 9.3.1 Further to guidance from Legal Services, Human Resources and the Strategic Procurement Team, it was identified at Gateway 1 that as this is a Services related procurement contract, TUPE did apply.
- 9.3.2 The recommended contract award at Gateway 3 resulted in 3 employees being affected by TUPE and transferring as a result of the incumbent provider from the old contract not being successful as part of the previous procurement tender process.
- 9.3.3 The transferor and transferee are required to comply with their respective obligations under the TUPE regulations to minimise legal challenges

9.4 Procurement Comments

- 9.4.1 The client department reports that they are satisfied that the contractors have performed to a satisfactory standard in accordance with the original procurement requirements and specification with which the Council undertook the competitive tendering process, they are also happy with the outcome of the action plan that was put in place in October 2013 which has led to an increase in referrals and conferences. This action plan will continue throughout the next year of the contract to ensure numbers do not decrease. Should it become apparent that the contract is not delivering against the outputs and outcomes identified at the initial procurement, then a Gateway 5 report will be brought at the earliest opportunity to the Procurement Board/Cabinet.

9.5 ICT Comments

- 9.5.1 There are no ICT implications.

10. RECOMMENDATION

- 10.1 The Cabinet is requested
- (i) to approve an increase to the core payment of Children's Social Care conferences as set out in paragraph 5.2.2 of the report and
 - (ii) to approve the continuation of the contract duration of 3 years plus the 2 year extension, with an additional gateway report being presented in November 2015 to ensure continued monitoring of the contract.

11. SUGGESTED REASONS FOR DECISION

- 11.1 This will enable the provider to recruit permanent staff and reduce the waiting list for Family Group Conferences.

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BACKGROUND PAPERS

The following documents have been relied upon in the preparation of this report:

Description of Document	Location	Date
Cabinet GW4 Report	http://democracy.medway.gov.uk/mgIssueHistoryHome.aspx?Ild=11653	26/11/2013