



Derby City Council

COUNCIL CABINET
6 December 2017

Report of the Cabinet Member for Education
and Skills

ITEM 8

Procurement of Educational Placements for Children and Young People with Special Educational Needs and Disabilities (SEND)

SUMMARY

- 1.1 The Local Authority is currently in the process of further strengthening procurement and placement procedures for independent and non-maintained special school and college placements for children and young people with special educational needs and disabilities (SEND).
- 1.2 The proposal is to establish a system similar to a Dynamic Purchasing System, which is similar to a framework agreement (with the exception that new suppliers can join at any time and it is run as a completely electronic process). This process will really help independent providers with improved efficiencies in relation to SEND educational placements.
- 1.3 This would be in accordance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015 to enable more robust contract management, tighter cost control and improved outcomes/quality for children and young people with SEND. It would also introduce an open, transparent, consistent and streamlined approach for providers.
- 1.4 Further improvements to the overall management of high cost SEND educational placements is a key priority for the People Services Directorate, as independent and non-maintained special school placements are an area of considerable budget expenditure, totalling £7,113,658 in 2016/17.
- 1.5 There is also a potential future opportunity to establish a regional SEND procurement system. This is currently being explored and scoped, and structured discussions are underway with a range of Local Authorities as part of the due diligence process.

RECOMMENDATION

- 2.1 To approve the establishment of a procurement compliant solution, for the procurement of SEND educational placements from independent and non-maintained special schools/colleges.
- 2.2 To note a procurement compliant solution may be a framework, dynamic purchasing system or pseudo solution – see paragraphs 4.2 to 4.4

- 2.3 To note that options are being explored to establish a regional SEND procurement framework/dynamic purchasing system.
- 2.4 To delegate authority to the Strategic Director for Peoples Service to approve the Council entering into such contractual arrangements as are necessary to give effect to the procurement compliant solution as stated above in 2.1, and to note that individual SEND educational placements shall be awarded in accordance with the arrangements set out in the procurement compliant solution and Contract Procedure Rules.

REASONS FOR RECOMMENDATION

- 3.1 The Local Authority is in the process of further strengthening SEND procurement and placement procedures that will demonstrate value for money.
- 3.2 A framework/dynamic purchasing system has benefits for both the Local Authority and providers, as outlined in this report.
- 3.3 A regional framework/dynamic purchasing system is also being explored which may lead to further efficiencies.



SUPPORTING INFORMATION

- 4.1 The Local Authority currently procures c150 independent and non-maintained school/college placements for children and young people with SEND, where their local mainstream provider is not able to meet their needs.
- 4.2 In order to strengthen procurement and placement procedures, improve transparency and further improve decision making, it is proposed to introduce a framework/dynamic purchasing system (DPS), or pseudo solution, as a mechanism for procuring these types of placement.
- 4.3 A dynamic purchasing system is similar to a framework agreement, with the exception that new suppliers can join at any time and it is run as a completely electronic process.
- 4.4 The reference to 'pseudo solution' is terminology used by Crown Commercial Services to describe a procurement procedure similar to those detailed in The Public Contract Regulations 2015 Chapter 2 Section 3, but procured following the allowable flexibility defined in The Public Contract Regulations 2015 Chapter 3 Section 7 (Social and Other Specific Services) more commonly known as the Light-Touch Regime. In other words a hybrid compliant solution.
- 4.5 The proposed framework/DPS is intended to be live from April 2018 and for a maximum period of five years.
- 4.6 There are a number of benefits of joining a framework/DPS, including:
 - a) Fulfilling Local Authority procurement requirements and reducing associated risks from non-compliant procurement,
 - b) Increasing the openness and transparency of the process, benefitting providers and customers,
 - c) Enabling a more robust basis for contract management, with advantages to both providers and the Local Authority, and enabling standardisation of terms and conditions of contract,
 - d) Increasing visibility and competition, potentially impacting on costs and enabling tighter cost control, demonstrating value for money,
 - e) Ensuring providers have passed minimum qualification criteria prior to consideration, and

The ability to add providers throughout the life of the framework/DPS ensures quality and should improve outcomes across the provision.

- 4.7 It is recognised additional resource is needed for the management and administration of the framework/DPS, and options are being considered.
- 4.8 It is envisaged a more transparent procurement process will also benefit providers and parents/carers, children and young people. Where a local mainstream school/college is unable to meet need or the parent requests an independent school, this solution would be used to consider any potential placement.

- 4.9 Currently, placement decisions are made considering a number of factors, including the ability of local maintained provision to meet need, comparable placement costs and consideration of parental preference.

4.10 **Current placements and financial spend**

As an indication of the value of spend that would pass through the framework, the Local Authority procures 135* independent and non-maintained school places at a current financial year cost of £6,298,440* per annum. This is primarily due to the special educational needs of the child/young person, where their local mainstream school is not able to meet their needs. The breakdown of need of young people attending these provisions, and type of SEND need, is outlined in Appendix 2.

- 4.11 Current and previous financial year school costs are:

Financial Year	Cost (£)	Number of Placements (as at 1 st January unless otherwise stated)
2017/18	6,394,808**	135*
2016/17	7,113,658	142
2015/16	5,931,364	140
2014/15	6,743,505	136
2013/14	6,339,007	125
2012/13	5,298,926	104

* Placements as at 31st October 2017

**Projected Financial Year costs (based on current placements plus cost of estimated new placements that may be made for the remainder of the financial year. This is based on placements that were made in the period 01/11/2016 to 31/3/2017 less costs of placements that ended in the same period.)

- 4.12 In addition to placements outlined in the table above, the Local Authority procured five specialist post-16 college placements from independent and non-maintained providers in 2016/17, primarily due to the complex needs of these young people. Estimated costs for 2017/18 are c £270k for eight students. In future, these types of placements would also be procured through the proposed framework/DPS.
- 4.13 As background information, individual school placement costs range from £13,714 - £110,997 per academic year. These rise to £112,875 - £224,466 per academic year for residential special school places. Where an external independent placement has been agreed, this may continue until the end of schooling at that provision which is usually at the end of year 14. Therefore placements can be in place for up to eight years. Placement costs in specialist post-16 educational colleges range from £18,902 to £66,269 per academic year (residential).

4.14 **Future procurement options**

There is a potential future opportunity to establish a regional SEND procurement framework/DPS. This is currently being explored and scoped, and structured discussions are underway with a range of Local Authorities. Once this is completed, consideration will be given to joining a regional solution.

OTHER OPTIONS CONSIDERED

- 5.1 Do nothing. This is not an option due to the requirement to comply with the Public Contracts Regulations 2015.
- 5.2 Implement a block contract with specific providers. This is not an option due to the specialist nature of SEN school provision meaning there are not consistently one or a few schools that could meet Local Authority requirements.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Emily Feenan, Principal Lawyer Alison Parkin, Head of Finance N/A N/A Gurmail Nizzer, Acting Service Director, Integrated Commissioning Laura Rose, Category Manager – People Services Alice Sanghera, SEN Commissioning Manager Paula Nightingale, Head of Inclusion Diane Whitehead, Acting Head of School Organisation and Provision
For more information contact: Background papers: List of appendices:	Lisa Melrose, Head of Integrated Commissioning (Children and Young People) 01332 642569 lisa.melrose@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Breakdown of SEND pupil need

IMPLICATIONS

Financial and Value for Money

- 1.1 Annual spend on independent and non-maintained school placements was £7,113,658 for 2016/17 financial year, being an area of significant spend for Peoples Services.
- 1.2 Additionally, High Needs Element 3 top up for specialist post-16 college placements totalled £162,878 in 2016/17.
- 1.3 It is important to note that the impact on placement cost from establishing a framework/DPS is unlikely to result in savings, although it is envisaged that the call off process would ensure a competitive and market rate.

Legal

- 2.1 The Local Authority must comply with statutory legislation and guidance regarding meeting the additional special educational needs of some children and young people outlined in an Education Health and Care Plan.
- 2.2 The Local Authority is bound to comply with the Public Contracts Regulations 2015, to promote competition, openness, non-discrimination and equality in the procurement process.

Personnel

- 3.1 It is likely there would be increased resource requirement for back office services when securing a placement due to the requirement to run a competitive call-off process and further associated contracting requirements.

IT

- 4.1 None.

Equalities Impact

- 5.1 Increased transparency and openness, through increasing the potential number of providers, will result in greater equality in the procurement process to meet the educational needs of children and young people with SEND.

Health and Safety

- 6.1 None.

Environmental Sustainability

7.1 None.

Property and Asset Management

8.1 None.

Risk Management

9.1 There is a risk costs will increase. This could be due to a number of factors, for example, package costs may increase due to transport costs (where a framework/DPS results in a greater number of out of area school providers who can all meet need).

Corporate objectives and priorities for change

10.1 There are links to the following priority outcomes in the Derby City Council Plan:

- Raising achievement and skills,
- Protecting vulnerable children and adults, and
- Being more commercial.

10.2 Improved management of high cost SEND educational placements is a key priority for the People Services Directorate.

Appendix 2

Breakdown of SEND Pupil Need

As at October 2017, the breakdown in pupil needs for independent and non-maintained school placements was as follows:

Needs of Pupil	Number of Placements
Autism Spectrum Disorder	57
Behavioural, emotional, social difficulties	23
Hearing Impairment	50
Moderate Learning Difficulty	0
Multi-sensory Impairment	0
Other	0
Physical Disability	0
Profound and Multiple Learning Difficulties	0
Severe Learning Difficulties	0
Specific Learning Difficulties	1
Speech, Language and Communication Difficulties	2
Visual Impairment	2
Total	135