

Divisions Affected – Oxfordshire

CABINET MEMBER DECISION FOR SEND IMPROVEMENT

17 January 2024

Authority to delegate decision to the Corporate Director of Children's Services to call off contracts for Alternative Provision using an Open Framework from 1st April 2024

Report by Corporate Director of Children's Services

RECOMMENDATION

The Cabinet Member Committee is RECOMMENDED

- a) To delegate authority to the Corporate Director of Children's Services to authorise the award of framework agreements to Providers who have applied for and been selected on the open framework in accordance with the framework selection criteria and to award Alternative Provision placement call-off contracts in accordance with the call-off award process under the framework and subject to the budgetary limits which follow. The aggregated spend of the framework contract for call-off contracts for Alternative Provision shall be circa £16.8m.
- b) To delegate authority to the Corporate Director of Children's Services, in consultation with the Head of Legal and Deputy Monitoring Officer and the Head of Procurement and Contract Management, to award call-off contracts to Providers, after the competitive process set out in the framework has been completed, for blocks of Alternative Provision placements (Block Contract) up to the value of £500,000 per contract.
- c) To delegate authority to the Corporate Director of Children's Services, in consultation with the Head of Legal and Deputy Monitoring Officer and the Head of Procurement and Contract Management, to initiate the competitive process set out in the framework, for call-off contracts for blocks of Alternative Provision placements (Block Contracts) over the value of £500,000 per contract. Award of Contracts subject to separate Key decision reports.

Executive Summary

1. Alternative Provision (AP) provides support to often vulnerable pupils and each placement has the potential to transform a child's life chances. AP is education arranged and commissioned for pupils of compulsory school age outside of mainstream or special schools, who would not otherwise receive suitable education for any reason.
2. Through the commissioning of an open framework of approved providers, the council seeks to ensure the local availability of services to meet the needs of children and young people in Oxfordshire.

3. Alternative provision is often accessed by children with special educational needs and disabilities (SEND) alongside, and sometimes instead of, their school experience. The procurement of a new open framework and the access to services it will provide address some of the Priority Actions and Improvement Areas in the [Oxfordshire SEND Local Area Partnership Priority Action Plan](#)¹.
 - A local area pathway is agreed for children and young people with emotional well-being and mental health concerns (PAP4C:1) The availability of suitable AP and timely access to available providers will support this priority action; in particular the measures for appropriate and proportional use of reintegration timetables, and reduction in the number of CYP with SEND with severe and persistent absence from school.
 - The development of a robust system for ongoing monitoring and quality assurance of providers across the system. An Assurance Framework has been developed and roll out with current providers in process (PAP4A:2)
 - The services will support suitable provision that meets the needs of children and young people with SEND (Areas for Improvement:4)

Project Context

4. As detailed in the Department for Education's publication [Alternative Provision, Statutory guidance for local authorities, \(January 2013\)](#)², local authorities are responsible for arranging suitable education for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education by schools for pupils on a fixed period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour.
5. The guidance states that provision should:
 - have a clear purpose with a focus on education and achievement as well as meeting the pupil's needs and rigorous assessment of progress.
 - offer appropriate and challenging teaching in English, mathematics and science (including IT) on par with mainstream education – unless this is being provided elsewhere within a package of provision;
 - be suited to the pupil's capabilities, give pupils the opportunity to take appropriate qualifications and involve suitably qualified staff who can help pupils make excellent progress; and
 - have good arrangements for working with other relevant services such as social care, educational psychology, child and adolescent mental health services, youth offending teams and drug support services etc.
6. [Special Educational Needs and Disabilities \(SEND\) and Alternative Provision \(AP\) Improvement plan, Right Support, Right Place, Right Time \(March 2023\)](#)³

¹ [SEND local area partnership PAP.pdf \(oxfordshire.gov.uk\)](#)

² [Additional health needs guidance \(publishing.service.gov.uk\)](#)

³ [Special Educational Needs and Disabilities \(SEND\) and Alternative Provision \(AP\) Improvement Plan \(publishing.service.gov.uk\)](#)

Sets out the roadmap to achieving National Standards for AP, aiming to create a three-tier alternative provision system, focusing on targeted early support within mainstream school, time-limited intensive placements in an alternative provision setting, and longer-term placements to support return to mainstream or a sustainable post-16 destination, by 2025.

Procurement

7. Following the decision to commission a new open framework at the Children, Education and Families Directorate Leadership Team meeting in May 2023, the first round of procurement was opened in October 2023 and there will be further rounds throughout the lifetime of the framework.
8. As detailed in the tender documentation, all providers are required to go through robust due diligence processes and comply with OCC policies and procedures, including but not limited to safeguarding, safer recruitment and quality assurance.
9. The open Framework will replace the current DPS from 1st April 2024 which will also be available for schools to purchase from. Separately the authority commissions AP from Meadowbrook College (the pupil referral unit) and Oxfordshire Hospital School. AP placements to these provisions are out of scope.

Brokerage

10. Referrals for the framework will be managed by the SEND Brokerage team.
11. The use of the SEND Brokerage team will support the referral process and EHCP casework team, when provision is sourced directly.

School Access to the Framework

12. Oxfordshire Maintained schools will be able to access the providers and their rates on the framework and commission AP directly for pupils on-roll.
13. Academies will be able to access the providers and their rates on the framework if an access agreement is signed with OCC.
14. AP commissioned directly from schools is not included within the contract value.

Financial Implications

15. The £16.8m estimated whole life cost of spend from Oxfordshire County Council on the Framework was based on the 22/23 figure of £2.8m spent on AP.

16. Whole life costs

22/23 Spend (£)	23/24 Estimated Spend (£)	Year 1 (£)	Year 2 (£)	Year 3 (£)	Year 4 (£)	Year 5 (£)	Year 6 (£)	Total for 6 years (£)
2.8m	2.8m	2.8m	2.8m	2.8m	2.8m	2.8m	2.8m	16.8m

Comments checked by: Danny Doherty (Finance Business Partner, Interim)
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Legal Implications

17. The Council's statutory duties and powers to provide alternative education provision services are set out in paragraph 4 of this report.

18. Framework providers have been selected competitively in accordance with the Council's Contract Procedure Rules which themselves ensure compliance with the Public Contract Regulations 2015 (as amended). The invitation to tender for the framework agreement made clear that maintained schools and academies (third party purchasers) would be able to use the framework agreement to enter their own call-off contracts with framework providers (third party arrangements). The Council will require such third party purchasers to enter into access agreements with the Council before using the framework agreement which will seek to exclude the Council's liability under such third party arrangements.

Comments checked by: Jonathan Pool (Solicitor, Contracts)
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Risk Management

19. As part of this recommissioning process, see below a summary of the Risks and Mitigations in place.

Risks & Mitigations

	Risk	Impact 0-5	Likelihood	Mitigation
1	Spend exceeds planned whole life cost.	5	High	Introduction of the Open Framework. Implementation of the AP Strategy.

2	AP is provided by unregistered providers	4	High	The wider AP strategy is aiming to move use of AP and therefore spend to registered AP providers. Assurance Framework has been developed to quality assure unregistered providers.
3	Current providers do not join framework.	3	Medium	Current placements agreed prior to the end of the DPS will continue but no new placements will be made.
4	Limited range of providers apply to join the framework and needs of CYP are not met.	4	High	Targeted work with current DPS providers who have not yet applied and potential new providers, with a range of academic and therapeutic provision, that can meet the needs of CYP.
5	Unknown providers joining the Framework.	3	High	No CYP will be placed prior to a Q&I visit with new providers.
6	Limited Capacity in Q&I to ensure quality monitoring of increased number of providers.	3	High	Prioritise new providers or where concerns have been raised.
7	Lack of engagement with Parent Carers in implementation of Open Framework.	3	Low	Developed relationship with OxPCF and attendance at monthly Working Group.
8	Lack of engagement with schools.	3	Medium	AP Commissioning guidance sent to all schools and SENOs.
9	Referral system not in place for the start of the contract.	4	Medium	Work underway to process map the new referral processes.
10	Capacity in the SEND brokerage team.	3	Medium	Recruitment has started and some staff are in post.
11	Limited strategic oversight of AP	2	Low	AP strategy has been approved and widely shared and a new oversight management post filled. Recommissioning Group to continue with members of services areas included.
12	Shared organisational knowledge of registered and unregistered providers	2	Low	Quality Assurance Framework and provider directory in place.

NAME

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Martin Goff
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Annex:

Nil

Background papers:

Nil.

[Other Documents:]

Nil

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