

## ***Delegated Decisions by Cabinet Member for SEND Improvement***

***Wednesday, 17 January 2024 at 1.00 pm  
Room 3 - County Hall, New Road, Oxford OX1 1ND***

If you wish to view proceedings, please click on this [Live Stream Link](#).  
However, that will not allow you to participate in the meeting.

### ***Items for Decision***

The items for decision under individual Cabinet Members' delegated powers are listed overleaf, with indicative timings, and the related reports are attached. Decisions taken will become effective at 5pm on Wednesday 24 January unless called in by that date for review by the appropriate Scrutiny Committee.

Copies of the reports are circulated (by e-mail) to all members of the County Council.

**These proceedings are open to the public**



Martin Reeves  
Chief Executive

January 2024

*Committee Officer:*                    **Democratic Services**  
*email:* [committeesdemocraticservices@oxfordshire.gov.uk](mailto:committeesdemocraticservices@oxfordshire.gov.uk)

*Note:*    *Date of next meeting: 21 February 2024*

<p><b>If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named on the front page, but please give as much notice as possible before the meeting.</b></p>
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## Items for Decision

### 1. Declarations of Interest

See guidance below.

### 2. Questions from County Councillors

Any county councillor may, by giving notice to the Proper Officer by 9 am two working days before the meeting, ask a question on any matter in respect of the Cabinet Member's delegated powers.

The number of questions which may be asked by any councillor at any one meeting is limited to two (or one question with notice and a supplementary question at the meeting) and the time for questions will be limited to 30 minutes in total. As with questions at Council, any questions which remain unanswered at the end of this item will receive a written response.

Questions submitted prior to the agenda being despatched are shown below and will be the subject of a response from the appropriate Cabinet Member or such other councillor or officer as is determined by the Cabinet Member, and shall not be the subject of further debate at this meeting. Questions received after the despatch of the agenda, but before the deadline, will be shown on the Schedule of Addenda circulated at the meeting, together with any written response which is available at that time.

### 3. Petitions and Public Address

Members of the public who wish to speak at this meeting can attend the meeting in person or 'virtually' through an online connection.

Requests to speak must be submitted by no later than 9am four working days before the meeting. Requests to speak should be sent to [committeesdemocraticservices@oxfordshire.gov.uk](mailto:committeesdemocraticservices@oxfordshire.gov.uk) .

If you are speaking 'virtually', you may submit a written statement of your presentation to ensure that if the technology fails, then your views can still be taken into account. A written copy of your statement can be provided no later than 9 am 2 working days before the meeting. Written submissions should be no longer than 1 A4 sheet.

### 4. Recommissioning the Current Alternative Provision DPS for an Open Framework (Pages 1 - 6)

*Forward Plan Ref: 2023/224*

*Contact:* Martin Goff, Head of Access to Learning, Children's Services,  
[michael.goff@oxfordshire.gov.uk](mailto:michael.goff@oxfordshire.gov.uk) ;

Sarah Roberts Commissioning Officer, [sarah.roberts@oxfordshire.gov.uk](mailto:sarah.roberts@oxfordshire.gov.uk)

Report by Corporate Director for Children's Services

**The Cabinet Member is RECOMMENDED:**

- a) To delegate authority to the Director 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 individual care package call-off contracts in accordance with the call-off award process under the framework and subject to the budgetary limits which follow. The maximum aggregated spend of the Council, after the brokerage process has been completed, for call-off contracts for individual care packages shall be £16.8m.**
  
- b) To delegate authority to the Director, 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 care packages (Block Contract) up to the value of £500,000 per contract.**
  
- c) To delegate authority to the Director, 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 care packages (Block Contracts) over the value of £500,000 per contract. Award of Contracts subject to separate Key decision reports.**

## **Councillors declaring interests**

### **General duty**

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed 'Declarations of Interest' or as soon as it becomes apparent to you.

### **What is a disclosable pecuniary interest?**

Disclosable pecuniary interests relate to your employment; sponsorship (i.e. payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council's area; licenses for land in the Council's area; corporate tenancies; and securities. These declarations must be recorded in each councillor's Register of Interests which is publicly available on the Council's website.

Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those member's spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

### **Declaring an interest**

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest. If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

### **Members' Code of Conduct and public perception**

Even if you do not have a disclosable pecuniary interest in a matter, the Members' Code of Conduct says that a member 'must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself' and that 'you must not place yourself in situations where your honesty and integrity may be questioned'.

### **Members Code – Other registrable interests**

Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your other registerable interests then you must declare an interest. You must not participate in discussion or voting on the item and you must withdraw from the meeting whilst the matter is discussed.

Wellbeing can be described as a condition of contentedness, healthiness and happiness; anything that could be said to affect a person's quality of life, either positively or negatively, is likely to affect their wellbeing.

Other registrable interests include:

- a) Any unpaid directorships

- b) Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority.
- c) Any body (i) exercising functions of a public nature (ii) directed to charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

### **Members Code – Non-registrable interests**

Where a matter arises at a meeting which directly relates to your financial interest or wellbeing (and does not fall under disclosable pecuniary interests), or the financial interest or wellbeing of a relative or close associate, you must declare the interest.

Where a matter arises at a meeting which affects your own financial interest or wellbeing, a financial interest or wellbeing of a relative or close associate or a financial interest or wellbeing of a body included under other registrable interests, then you must declare the interest.

In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied:

Where a matter affects the financial interest or well-being:

- a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

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## **Divisions Affected – Oxfordshire**

### **DELEGATED DECISIONS BY CABINET MEMBER FOR SEND IMPROVEMENT**

**17 January 2024**

### **Recommissioning the Current Alternative Provision DPS for an Open Framework**

**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 individual care package call-off contracts in accordance with the call-off award process under the framework and subject to the budgetary limits which follow. The maximum aggregated spend of the Council, after the brokerage process has been completed, for call-off contracts for individual care packages shall be £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 care packages (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 care packages (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](#)<sup>1</sup>.
  - 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, \(January 2013\)](#)<sup>2</sup>, 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.

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

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



6. [Special Educational Needs and Disabilities \(SEND\) and Alternative Provision \(AP\) Improvement plan, Right Support, Right Place, Right Time \(March 2023\)](#)<sup>3</sup>  
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.
7. The open Framework will replace the current DPS from 1<sup>st</sup> 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

8. Referrals for the framework will be managed by the new SEND Brokerage team.
9. The use of the SEND Brokerage team will support the referral process and EHCP casework team, who currently source provision directly.

## School Access to the Framework

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

## Financial Implications

13. 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.
14. Whole life costs

22/23		Year 1 (£)	Year 2 (£)		Year 4 (£)		Year 6 (£)	Total for 6 years (£)

<sup>3</sup> [Special Educational Needs and Disabilities \(SEND\) and Alternative Provision \(AP\) Improvement Plan \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Spend (£)	23/24 Estimate d Spend (£)			Year 3 (£)		Year 5 (£)		
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

15. The Council's statutory duties and powers to provide alternative education provision services are set out in paragraph 4 of this report.
16. 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)  
[Jonathan.pool@oxfordshire.gov.uk](mailto:Jonathan.pool@oxfordshire.gov.uk)

## Risk Management

17. 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 Lisa Lyons  
Corporate Director of Children's Services

Annex: Nil

Background papers: Nil.

[Other Documents:] Nil

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29 December 2023

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