



**Author/Lead Officer of Report: Emma Beal,
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Report of: Jayne Ludlam
Report to: Cabinet
Date of Decision: 18th October 2017
Subject: Commission of Alternative Provision

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input type="checkbox"/>	No <input type="checkbox"/>
- Expenditure and/or savings over £500,000	<input checked="" type="checkbox"/>	
- Affects 2 or more Wards	<input checked="" type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to? People Directorate		
Which Scrutiny and Policy Development Committee does this relate to? CYPF		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, what EIA reference number has it been given? 54		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		
<p><i>"The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended)."</i></p>		

<p>Purpose of Report:</p> <p>The intention of this report is to seek cabinet approval to:</p> <ul style="list-style-type: none"> • Re-commission existing Alternative Provision beyond February 2018 • Improve the existing framework to enable dynamic purchasing and increased diversity of provision that better meets the needs of young people in Sheffield <p>This provision is of particular significance to young people who are in need of an education offer away from usual school based learning providing services for some</p>

of our most vulnerable young people who are often permanently excluded and/or at risk of becoming NEET post 16.

Recommendations

1. Approves the re-commissioning of the Alternative Provision Framework as detailed within this report.
2. Delegate authority to the Executive Director, People Services, in consultation with the Director of Finance and Commercial Services and the Director of Legal Services to:
 - i. agree a procurement strategy for a framework arrangement for the Alternative Provision for the academic years 2018-19, 2019-20 and 2020-21, as set out and in line with this report.
 - ii. award such contracts following the procurement process.
 - iii. take all other necessary steps not covered by existing delegations to achieve the outcomes outlined in this report.

Background Papers:

(Insert details of any background papers used in the compilation of the report.)

Lead Officer to complete:-	
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.
	Finance: <i>Paul Jeffries</i>
	Legal: <i>Henry Watmough-Cownie</i>
	Equalities: <i>Bashir Khan</i>

	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	EMT member who approved submission:	<i>Jayne Ludlum</i>
3	Cabinet Member consulted:	<i>Cllr Jackie Drayton</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Emma Beal</i>	Job Title: <i>Assistant Director, Lifelong Learning</i>
	Date: <i>4th October 2017</i>	

1. PROPOSAL

(Explain the proposal, current position and need for change, including any evidence considered, and indicate whether this is something the Council is legally required to do, or whether it is something it is choosing to do)

- 1.1 Lifelong Learning Skills and Communities leads an extensive, established Alternative Provision provider network drawn from the private, public and voluntary and community sectors which has successfully engaged learners at Key Stage 4 in off-site vocational and employability related studies including substantial numbers of those at risk of becoming NEET (Not in Education, Employment or Training) post 16 since its inception in 2004.

The programme is entirely demand led and does not incur a cost to the Council as it is completely funded by participating schools as a fee paying service. The programme continues to attract national recognition as an exemplar of good practice.

1.2

The following drivers mean that we are seeking to re-procure the programme and diversify its delivery cohorts:

People Portfolio Alternative Provision Strategy and Plan

Cross service working has resulted in an agreement to joint commissioning of Alternative Provision from 2017 onwards. The strategic plan for Alternative Provision focuses on prevention, the development of local partnerships, devolved funding to schools and the

restructure of Local Authority support.

Alongside this, a refresh of the pathways for pupils will form the foundations of our approach. The Alternative Provision network is part of the vehicle through which we will bring about the developments needed and therefore needs to be refreshed to ensure it can support:

- Reductions in the incidence of fixed term and permanent exclusions and an increase in attendance.
- A greater focus on support for pupils exhibiting exclusion risk factors. This will include ensuring family working is a focus.
- A more focused model of service delivery; one which ensures children and young people are ready to learn, able to succeed in their learning at every key stage and have developed the skills they need to progress into work or further education.
- Earlier investment in prevention. To do this we must ensure that whenever need arises assessment will be completed holistically, in a timely manner and at the earliest stage, referrals will be efficient and thresholds consistently applied.
- Greater local control over resources and greater local accountability.
- A greater focus on transition work between primary and secondary schools and secondary to Post 16.

Developmental work with Primary Pupils and Key Stage 5 learners (including High Needs)

In 2015 at the request of the Primary Inclusion Panel the 14-25 Progressions Team also began an early intervention Alternative Provision pilot. These young people are exhibiting high risk factors for permanent exclusion and require a holistic education support approach which in some cases includes Alternative Provision. Intelligence gathered from the piloting of this work indicates some key successes in helping primary age young people return make an early return to school/mainstream settings

In 2014-15 the 14-25 Progressions Team began testing the framework to commission places for high needs young people with SEND at post-16. These young people present complex cases for education requiring bespoke packages in order for them to be able to access provision within Sheffield. This programme is proving successful and may be expanded to support programmes for other vulnerable groups such as children in care/care leavers, teenage parents or new arrival young people.

The current commissioning arrangements for these placements are on an individual learner basis where placements are matched to the learner's needs and interests and arranged through individual waivers as appropriate. Introduction of Primary and KS5 to the new framework will

reduce the number of waiver requests for this type of provision.

Additionally, value can be added by creating a single commissioning framework for all strands from Primary to KS5 rather than creating separate commissioning frameworks. This improves coherence in our offer, standardisation of quality and better alignment of our strategies in this area of work.

Curriculum Diversification

The current framework has been in existence for twelve years and whilst there are many positive elements of a largely stabilised group of providers the changing nature of the City and the new strands of Alternative Provision been sought mean we wish to consider the market once more.

The Government proposal for the introduction of Technical Level qualifications starting from Key Stage 4 (as set out in the Post 16 Skills Plan) provides an opportunity to renew the Sheffield Vocational Skills Programme. This would be developed in consultation with post 16 organisations who are able to offer pathways to progression within the 15 sector route ways outlined by the Government.

Flexible commissioning that enables rapid response to emerging demand

The delivery model is to be co-designed with the heads of participating schools and specialist services to ensure provision effectively targets resources to meet the specific needs of groups or individuals.

The procurement of a framework will be arranged in accordance with the Public Contract Regulations 2015, Contract Standing Orders and EU regulation by means of an open tender process undertaken by Finance & Commercial Services.

In order that delivery arrangements retain the flexibility required to respond to emerging needs in both a thematic and geographical sense and the adaptability to ensure that the AP evolves to remain relevant and valuable to those schools using its services for the duration of the framework, a “pseudo-dynamic purchasing system” under the “light touch” regime permitted by the Public Contract Regulation 2015 will be adopted as the basis on which the AP is procured. Selection of suitably experienced suppliers with a track record demonstrating capacity and capability in the delivery of similar services will be made on a range of criteria based around price and quality.

2. HOW DOES THIS DECISION CONTRIBUTE ?

(Explain how this proposal will contribute to the ambitions within the Corporate Plan and what it will mean for people who live, work, learn in or visit the City. For example, does it increase or reduce inequalities and is the decision inclusive?; does it have an impact on climate change?; does it improve the customer experience?; is there an economic impact?)

2.1 This is an area of work that contributes in a number of ways to the priorities outlined in the Council's Corporate Plan:

- **An in touch organisation** – understand the increasingly diverse needs of individuals in Sheffield so the services are designed to meet these needs
- **Strong economy** – local people to have the skills they need to get jobs and benefit from economic growth
- **Thriving neighbourhoods and communities** – access to great, inclusive schools, people feel safe, and local people and communities are able to get involved
- **Better health and wellbeing** – helping people to be healthy and well by promoting and enabling good health whilst preventing and tackling ill health. Provide early help and look to do this earlier in life to give every child the opportunity to have a great start in life.
- **Tackling inequalities** – making it easier for individuals to overcome obstacles and achieve their potential, supporting individuals and communities to help themselves and each other, so the changes they make are resilient and long lasting. Enable fair treatment, taking account of disadvantages and obstacles that people face

3. HAS THERE BEEN ANY CONSULTATION?

(Refer to the Consultation Principles and Involvement Guide. Indicate whether the Council is required to consult on the proposal, and provide details of any consultation activities undertaken and their outcomes.)

3.1 The re-commission and improvement of the Alternative Provision framework is based on intelligence gathered through evaluation with providers, schools, young people and specialist services.

The main aim of the framework is to assess and approve suitably experienced and qualified providers who have the rights to respond to specific tenders for the delivery of Alternative Provision.

There will be a need for greater consultation at the point of specific tenders for work as the tenders will need to be designed in partnership with the purchasing stakeholders ie schools or specialist services. It is at this stage that further consultation will be introduced.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

4.1.1 Decisions need to take into account the requirements of the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. This is the duty to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The Equality Act 2010 identifies the following groups as a protected characteristic:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

An Equality Impact Assessment has been carried out and highlights several areas of positive impact, specifically on age, for BME, disabled and SEN young people and also boys. There are positive impacts on longer term health and wellbeing, tackling poverty and community cohesion. The voluntary, community and faith sector and other partners also have a positive impact on account of Alternative Provision.

4.2 Financial and Commercial Implications

4.2.1 The financial risks attached to the Alternative Provision Programme are primarily associated with a lack of demand from participating schools.

This is predicated on the basis that the programme will be funded entirely by fees received from schools based on a “per student per day rate”. Therefore whilst a lack of demand may impact on the delivery of the programme it will not pose a risk to the Council. This will be ensured by contracts with providers which will be framed so that all payments are made retrospectively on the basis of the actual number of learner days

delivered in a given claim period. Minimum levels of business will not be guaranteed.

The programme was subject to Sheffield City Council audit in 2015 which confirmed robust financial monitoring processes continue to be applied to the programmes by the Grants Administration Unit within Lifelong Learning Skills and Communities. Officers within this Unit have significant knowledge and expertise as a result of several years of experience in administering programmes of this nature.

Current gross spend is £1m per year, mainly paid out to third parties but also includes recharges from other training units to cover the Alternative Provision delivery.

This is funded mainly through charges for services, plus £137k directly from DSG and £65k DSG pass-ported through Children Missing in Education

4.2.1 There is also a wider financial impact should this request not be approved as follows:

- **Schools** – as our largest customer base, schools would be forced to make their own arrangement for alternative provision. This would mean a loss of income to Sheffield City Council and potential for the creation of competitor provision of varying quality.
- **Specialist services** – services, such as Youth Justice Service, may be required to broker their own arrangements with providers which could result in a higher cost as they would not have the purchase power achieved through competitive tender. Additionally, they may not have the skills and/or capacity to quality assure the provision
- **Young people** – pupils engaging on the existing Alternative Provision programmes will not be able to continue their planned programme of study for the whole academic year if it is not possible to agree further provision beyond February 2018
- **External funding** – Lifelong Learning, Skills and Communities is actively applying for complementary funding to further support the development of the Alternative Provision and the diversity of provision made available through these frameworks. These funding streams include (but not limited to) the Government Life Chances Fund and the ESF Pathways to Progress (provision for 14-25 year olds who are NEET or at risk of becoming so). Failure to establish a network of providers who are able to support the delivery of Alternative Provision through these and other future funding streams will impact on externally funded contract performance.

4.3 Legal Implications

Such Alternative Provision is required for pupils who cannot attend

mainstream school for a variety of reasons, such as school exclusion, behavioral issues, short- or long-term illness, school refusal or teenage pregnancy.

The Education Act 1996 places a duty on the Council to arrange suitable full-time education for such pupils who would not receive suitable education without such provision. The Secretary of State for Education has published statutory guidance about these duties, and the Council must have regard to it. The statutory guidance covers issues such as the quality of the provision and commissioning of providers and as long as Officers have regard to this guidance when using the dynamic purchasing system the Council will be acting lawfully and within its powers.

- 4.3.1 Existing providers are contracted through a waiver arrangement until February 2018. Sufficient notice will need to be given regulations addressed (where applicable) should it not be possible to continue delivery of services beyond February.
- 4.3.2 There should be fewer requests for ad hoc waivers for Alternative Provision as the new dynamic purchasing commissioning framework will provide the mechanisms and flexibilities required to respond quickly to market need without the need for waivers.
- 4.3.3 It is essential that all commissioning is compliant with Council Standing Orders and EU regulations when undertaking procurement and any subsequent contracting. Any contingent risk will be mitigated by using the services of a Procurement Professional, taking advice from Commercial Services and consulting the Council's Legal Service.
- 4.4 Other Implications
(Refer to the Executive decision making guidance and provide details of all relevant implications, e.g. HR, property, public health).

5. ALTERNATIVE OPTIONS CONSIDERED

(Outline any alternative options which were considered but rejected in the course of developing the proposal.)

- 5.1 Consideration was given as to whether there should be a separate commission for each of the key cohort groups. This option was rejected as:
 - It would be time consuming for applications to make several similar applications if they delivery services to more than one cohort group
 - Commercial and Legal services are confident that the commission can be designed to satisfactorily accommodate all cohorts without need for multiple commissions or contracts
 - Quality is maintained and risk is reduced by standardising practice (where applicable) across all contracts.

6. REASONS FOR RECOMMENDATIONS

(Explain why this is the preferred option and outline the intended outcomes.)

- 6.1 Lifelong Learning, Skills and Communities request that Cabinet uphold the recommendations made earlier in the report to ensure business continuity is achieved and to provide a futureproof framework that will allow for the continued development of Alternative Provision in Sheffield