



Author/Lead Officer of Report: (Kevin Straughan, Head of Service and Daina Cummings)

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Report of: *Executive Director People Services*

Report to: *Co-operative Executive*

Date of Decision: *9 June 2021*

Subject: *Extension of the Alternative Provider Framework*

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input checked="" 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 Executive Member Portfolio does this relate to? <i>Education, Children and Families</i>		
Which Scrutiny and Policy Development Committee does this relate to? <i>Children, Young People and Family Support Scrutiny and Policy Development Committee</i>		
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? <i>People/KS/4/02/2021</i>		
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:-		

Purpose of Report:

- Lifelong Learning is seeking permission put in place a new provider framework for the delivery of alternative provision for the coming academic year, September 2021 – July 2022. The framework will allow Sheffield City Council to procure delivery of alternative provision programmes appropriate for school-aged pupils from organisations with an assessed capability and capacity to provide.
- Having an AP framework will mitigate any risk to secondary school pupils associated with attending non-regulated provision and help with behaviour intervention. AP providers on the framework will have undertaken due diligence and necessary checks comply with procurement rules and be subject to on-going quality assurance and contract management.

- Providers on the framework will be able to bid to provide provision designed for secondary school aged pupils who would benefit from off-site education to re-engage students with the mainstream, school-based curriculum.
- The creation of a new, 1 year, AP framework agreement will allow the council to undertake review of the delivery of the programme which has been postponed due to the impact the impact of COVID-19.

Recommendations:

- Agree the proposal to establish a new AP framework from September 21 to July 22 in accordance with Regulations 74 – 76 of the Public Contracts Regulations 2015.
- Approve the Council entering into the AP framework agreement with alternative provision providers to enable it to fulfil its legal duties under s19 Education Act 1996.

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>Anna Beeby (finance) and Gerard Higgins from Procurement</i>
	Legal: <i>Richard Marik</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>Andrew Jones</i>
3	Executive Member consulted: <i>Cllr Jane Dunn</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>Kevin Straughan</i>
	Job Title: <i>Head of Service</i>
Date: 1 st June 2021	

1. PROPOSAL

- 1.1 SCC currently procures, contract manages, and quality assures a network of off-site alternative provision providers for use by Sheffield schools and services within the People portfolio such as Children Missing from Education.

Local authorities have a duty under s19 Education Act 1996 to arrange suitable full-time education for permanently excluded pupils and for other pupils who, because of illness or other reasons, would not receive suitable education without such provision. This is currently achieved via a framework arrangement commercially procured and compliant with both Contract Standing Orders and the Public Contract Regulations 2015. It has operated in its current form since September 2017 and is scheduled to come to an end in July 2021. The AP framework agreement establishes the terms governing the contracts to be awarded during the period of the agreement, in particular regarding price.

The intention was to undertake a review of the delivery of the programme in preparation for re-commissioning and re-procurement during the current academic year 2020-21. However, this was unable to take place because of the impact of the Covid-19 pandemic on the delivery of the programme, the consequent availability of relevant staff and internal discussions regarding the future of the programme going forward. As a result, the timeline attached to the planned review has had to be re-configured. In pursuit of this a working party has been established comprising senior operational managers, headteachers (both primary and secondary) and officers from Commercial Services. The intention is to shape the requirement for provision that will better meet the needs of children within the city who would benefit from a period of alternative curriculum in order to be able to e-engage with mainstream learning and thereafter to scope the subsequent commissioning and procurement strategy to have provision in place ready for delivery from September 2022. The proposals specific to this seeking authority to proceed will be the subject of a separate report to the Co-operative Executive at some later point.

Therefore, to facilitate this process it is necessary for officers to seek permission to establish a new framework for the delivery of Alternative Provision for the coming academic year, September 2021 – July 2022.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The AP framework gives Headteachers an option to provide alternative education provision for vulnerable pupils who find it difficult to engage with mainstream school.

The proposal allows for continuance of the existing delivery arrangements

pending a review of the delivery of alternative curriculum, to determine how best to meet the needs of those children in city schools who find it difficult to engage with mainstream learning so that they can return to mainstream education and maximise their personal life chances for the social and economic betterment of the city.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 Secondary Inclusion Panel, Learn Sheffield, Access and Inclusion and Lifelong Learning

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

- 4.1.1 Decisions need to consider 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 and sexual orientation.

An Equality Impact Assessment has been carried out and highlights that that the extension of the current provision enables continuous provision to be available to some particularly vulnerable young people until the new arrangements are in place from September 2022.

4.2 Financial and Commercial Implications

- 4.2.1 Pupils will be referred to alternative provision by either their school or the Council service, which is currently engaged with securing their education, for example if they are “missing from education” or new arrivals to the city not yet assigned to a school roll. As indicated above the framework will be demand led and managed by Sheffield City Council.

The total value of the call-off contracts granted because of further

competitions under the proposed framework arrangements is estimated to be c. £750,000 for the academic year 2021-22 spread over several providers. However, this figure will be subject to demand from schools and Council services.

The service is purchased by schools and other Council services on the basis of a pre-determined tariff and therefore is self-funding. An amount of £2- £7 per pupil per day is levied from the fee charged to fund contract management, quality assurance, health and safety monitoring and the referral team which works with schools to place a child in appropriate provision.

In order to ensure compliance with Contract Standing Orders and the Public Contracts Regulations 2015, the Council will accept the use of previous competitive tender data and resultant outcomes (relating to the 2017 procurement which established the existing framework) to enable the Direct Award to incumbent Framework providers. This is achievable on the basis and utilisation of:

- Identical specification to the current framework, and
- Identical terms and conditions to the current framework.

This is based on a commercial vehicle permissible under the Light Touch Regime, Regulations 74 - 76 of the Public Contract Regulations 2015.

A procurement strategy has approved a direct award to a new framework.

It is also recommended that when the new framework is established, the framework is opened to allow the undertaking of further competitions to award call-off contracts within the academic year 2021-22.

4.3 Legal Implications

- 4.3.1 Local authorities have a duty under s19 Education Act 1996 to arrange suitable full-time education for permanently excluded pupils, and for other pupils who, because of illness or other reasons, would not receive suitable education without such provision. The creation of an AP framework agreement facilitates the fulfilment of this legal duty.

Save in exceptional circumstances, Regulation 33(3) of the Public Contracts Regulations 2015 limits the term of a framework agreement to 4 years. This limit will be reached in July 2021 and the proposal to enter into a new, 1 year, framework agreement will allow the Council to undertake its delayed programme delivery review. There is no minimum limit to a framework agreement.

The proposal to undertake a procurement process under the Light Touch Regime, provided that the total value of the call-off contracts do not exceed **£663,540** - on identical terms and conditions, based on 2017 competitive tender data, satisfies both the Public Contracts

Regulations 2015 (Regulations 74-76) and the Council's Contracts Standing Orders.

4.4 Other Implications

- 4.4.1 AP providers on the SCC framework are contracted to work with schools, undertake health and Safety visits, DBS checks, and COVID Risk Assessments, including quality improvement inspections.

5. **ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 There is a risk associated with not regulating the use of Alternative Provision in the secondary sector, specifically secondary schools will continue to use providers which have not been subject to prior due diligence and on-going contract management. Pupils will not receive a planned programme with clear learning outcomes.

6. **REASONS FOR RECOMMENDATIONS**

- 6.1
- A framework will ensure the consistency of quality of Alternative Programme provision for schools, regulates costs and provide a uniform, coherent approach for the city
 - It provides an opportunity to develop and provide appropriate AP programmes to all secondary school pupils who would benefit from it.
 - It provides an opportunity to develop intervention programmes where Alternative Programme providers can support vulnerable pupils' reintegration into a mainstream school-based curriculum and result in better learning outcomes.

An Alternative Provision framework can provide vital data for the city as a whole and individual schools relating to cohort characteristics and needs; the take up of provision; progress tracking of individuals and groups; and achievement of learning outcomes thereby contributing to planning and continuous improvement.