
Report to: Cabinet

Date of Meeting: 27th February 2014

Subject: Future Arrangements for the Procurement of Education, Day and Residential Places at Independent and Non- maintained Special Schools.

Report of: Director of Young People and Families **Wards Affected:** All

Is this a Key Decision? Yes

Is it included in the Forward Plan? Yes

Exempt/Confidential No

Purpose/Summary

1. To up-date the Cabinet on the current position regarding the Authority's use of education, day and residential places at Independent and Non- Maintained Special Schools.
2. To seek approval of Cabinet to conduct a procurement process to establish a Framework Contract for the provision of Pre-16 education, day and residential places at independent and non- maintained special schools. The Contracts will take effect as from September 2014, with referrals for new placements being made from July 2014.

Recommendation(s)

1. That developments regarding the authority's use of education, day and residential places at Independent and non-maintained special schools be noted.
2. The evaluation criteria for tenders to provide Pre-16 day and residential places at independent and non- maintained special schools from September 2014, as set out in paragraphs 6.1 and 7.1 of the report, be approved.
3. That the Director of Young People and Families be authorised to accept the highest scoring tenders based on the evaluation criteria agreed
4. The contract will run for 2 years with the option to extend for 1x2 year periods, subject to a satisfactory review.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community	✓		
2	Jobs and Prosperity		✓	
3	Environmental Sustainability		✓	

4	Health and Well-Being	✓		
5	Children and Young People	✓		
6	Creating Safe Communities		✓	
7	Creating Inclusive Communities		✓	
8	Improving the Quality of Council Services and Strengthening Local Democracy		✓	

Reasons for the Recommendation:

To ensure that children and young people with the most severe and complex special educational needs are provided with high quality specialist provision, matched to their individual needs, in line with the principles of best value.

What will it cost and how will it be financed?

(A) Revenue Costs

DSG High Needs budgets include significant amounts of funding to meet the 'educational' costs of Pre-16 day places and residential placements for children having severe and complex special education needs attending Independent and Non-Maintained Special schools (Day cost budget (2013/14) £1,892,000 & Residential costs (2013/14), included within a larger High Needs budget, estimated at approx £561,000).

In addition to educational needs however, there are also the Social Care needs associated with residential provision, concerning the costs of accommodation; and social care support, and where agreed, these costs are charged against the Council's Core Social Care budgets for residential placements & packages. (2013/14 the estimated/committed costs included within large Social Care Placement budgets are approx £643,000 for provision at Independent & Non-Maintained special schools).

There are also contributions towards health issues associated with complex medical needs of a child, paid for by the NHS, and per our latest forecast information, this is approximately £310,000 pa. Costs associated with health however, are not related to the Local Authority.

Note, that costs can vary from year to year, dependent on numbers of children and young people placed in day or residential education and medical and social needs.

(B) Capital Costs

N/A

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal

The recommendations in this report relate to the Council's duties under existing SEN and disability legislation such as the 1996 Education Act, the Special Educational Needs Code of Practice (2001) and the Equality Act (2010). Consideration is also given to the Council's anticipated duties under the Children and Families Bill, as described in the draft Special Educational Needs Code of Practice (2013). As this is a contract for Part B services (Educational) it is not subject to the full requirements of OJEU

Human Resources**Equality**

- | | |
|---|-------------------------------------|
| 1. No Equality Implication | <input type="checkbox"/> |
| 2. Equality Implications identified and mitigated | <input checked="" type="checkbox"/> |
| 3. Equality Implication identified and risk remains | <input type="checkbox"/> |

Impact on Service Delivery:

The recommendations will ensure that a framework for the provision of education, day and residential places at independent and non- maintained special schools is developed according to a fair and transparent process, with clear criteria for delivering positive outcomes for the young people concerned.

What consultations have taken place on the proposals and when?

The Head of Corporate Finance (FD2795/13) has been consulted and would comment as follows :

There is currently no contractual framework in place for the award of day and residential placements to Independent and Non-Maintained schools, which could leave the Council exposed to challenge, and this tender process will provide transparency to future awards.

Through the recommended tender process for day and residential placements, it is hoped that savings can be achieved to both the High Needs DSG for the educational element of costs, and to the Council's core social care budgets for the costs of care in residential settings at Independent and Non-Maintained Special Schools.

The Head of Corporate Legal Services (LD2101) has been consulted and has no comments to add to the report.

Are there any other options available for consideration?

The risks of doing nothing: We are in breach of our own constitution. The market has not been tested and subjected to competition to provide evidence of value for money and quality of service provision.

Implementation Date for the Decision

Following the expiry of the "call-in" period for the Minutes of the Cabinet/Cabinet Member Meeting

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Background Papers:

There are no background papers available for inspection.

1. Special educational needs

- 1.1 The majority of children and young people with special educational needs (SEN) have their needs met through mainstream education providers and will not need the authority to provide additional support. All early years and education providers are responsible for meeting special educational needs. The governing bodies, proprietors and management committees of mainstream schools, maintained nursery schools, pupil referral units (PRU) and institutions within the further education sector must use their 'best endeavours' to secure the special educational provision called for by a child or young person's SEN. Where a SEN is identified, early years providers, schools and colleges should put appropriate evidence-based interventions in place. These should be provided as part of a graduated approach, which includes regular review of the progress made and adaptations to the support provided as required.

2. Statutory assessment

- 2.1 For a small group of children, where the special educational provision required to meet their needs cannot reasonably be provided from within the resources normally available to mainstream early years providers, schools and post 16 institutions, the authority may seek to carry out a statutory assessment. This process is currently determined by the statutory guidance provided in the Special Educational Needs Code of Practice (2001). Part 3 of the Children and Families Bill will introduce changes in legislation relating to children and young people with special educational needs, including extending the age range covered to 0 – 25. In October 2013 a draft of the new SEN Code of Practice was published. This provides an indication of the statutory guidance that is likely to come into effect in September 2014.

3. Special educational provision in Sefton

- 3.1 The draft SEN Code of Practice endorses the rights of parents and young people to express a preference for a particular school subject to:
- the school being suitable for the age, ability aptitude or SEN of the child or young person
 - the attendance of the child being compatible with the efficient education of others or the efficient use of resources.
- 3.2 Many pupils with statements of special educational needs are therefore educated successfully in the local mainstream school of their parents' choice. The authority also funds some 182 places for pupils with statements in resource bases at seven primary schools and two high schools. These cater for children whose primary areas include autistic spectrum disorders (ASD), behavioural, emotional and social difficulties (BESD), complex learning difficulties (CLD), specific learning difficulties (SpLD), speech and language difficulties (SCLN).
- 3.3 Some children and young people need a more specialist curriculum than that on offer in most mainstream schools and for this group of pupils the authority maintains five special schools:

- Crosby High, which caters for 146 secondary age pupils with complex learning difficulties
- Merefield, which caters for 72 pupils from 2-19 with severe to profound learning difficulties, some of whom also have autistic spectrum disorders
- Newfield, which caters for 81 primary and secondary pupils with behavioural, emotional and social difficulties
- Presfield, which caters for 72 pupils aged 11 to 19 with autistic spectrum disorders
- Rowan Park, which caters for 126 pupils from 2-19 with severe to profound learning difficulties, some of whom also have autistic spectrum disorders

4. The use of independent and non-maintained special schools

4.1 For a small number of pupils the outcome of statutory assessment is that their special educational needs are too severe and complex to be met within the provision currently maintained by the authority. On 29th November 2013, there were 53 such pupils: 30 with autistic spectrum disorders, 20 with behavioural, emotional and social difficulties and 3 with severe to profound learning difficulties. Although most of the children concerned attend on a daily basis, 9 pupils have residential placements which are funded jointly with social care and, in some case, also with health. The table below shows the average costs per pupil for each of these types of provision:

Average net costs per pupil			
	Day	38 week residential	52 week residential
ASD	£39,200	No placements	£185,802
BESD	£58,286	£86,655	£140,000
SLD	No placements	£123,966	£180,392
SpLD	£14,706	No placements	No placements
VI	£39,909	No placements	No placements

- 4.2 The cost of this very specialist provision is substantial and it is therefore important to ensure that contracts for the provision of places at independent and non-maintained special schools are awarded according to a fair and transparent process with clear criteria for delivering positive outcomes for the young people concerned
- 4.3 There were also 6 other pupils with statements being educated outside the borough, 2 with specific learning difficulties and 4 with severely reduced vision. The parents of these pupils exercised their rights to request provision outside the borough. The difference in cost of providing similar provision within the borough was not sufficiently different for the borough to put forward a viable alternative that could be defended at an SEN tribunal.

5. The identification of preferred providers

5.1 It is proposed Sefton conduct a Procurement process and this will include an Open Tender exercise. The contract will be for a 2 year period in the first instance, with an option for a 1x2 year extensions subject to satisfactory performance.

5.2 Providers will be invited to tender under one or more of the following categories:

- Autistic spectrum disorder:
- Behaviour, emotional and social difficulties
- Severe learning difficulties
- Specific learning difficulties
- Visual impairment

5.3 The aim is to identify a Framework with a tiered structure for each of the following categories. Expressions of interest would be submitted to provide a quality service at a competitive price.

- Primary age – day provision
- Primary age – 38 week residential
- Primary age – 52 week residential
- Secondary age – day provision
- Secondary age – 38 week residential
- Secondary age – 52 week residential

6. Award criteria

6.1 The contract will be awarded utilising a weighted scoring system of:

- Price – 40%
- Quality – 60%

7. Quality

7.1 The other quality indicators will include staff with qualifications specific to the area of need for which the provider is tendering, skills and knowledge; evidence of a personalised approach, customising the support provided to the needs of individual children, families and settings; an outcomes led approach, providing evidence that children who receive the support provided have improved outcomes.

7.2 The procurement process will be completed by May 2014, with the contract to be awarded on June 2014 with a start date of 1st September 2014.

8. Cost

8.1 It is anticipated that by conducting this tender exercise in the open market it will drive down costs to both the High Needs DSG and Council's Core Social Care placement budgets and increase the quality of provision at Independent and Non-Maintained Special Schools.