

**NORTH SOMERSET COUNCIL
DECISION**

**DECISION OF: DIRECTOR, PEOPLE AND COMMUNITIES
WITH ADVICE FROM: EDUCATION INCLUSION SERVICE LEADER
AND VIRTUAL SCHOOL HEADTEACHER
DIRECTORATE: PEOPLE AND COMMUNITIES**



DECISION NO: PC113 (2018/19 SCHEME)

**SUBJECT: INDEPENDENT NON-MAINTAINED SPECIAL SCHOOLS SUB REGIONAL
FLEXIBLE FRAMEWORK**

KEY DECISION: YES

BACKGROUND:

North Somerset provides a range of high quality mainstream and specialist provision for children and young people with special educational needs. However, a small but significant number of children and young people with Education, Health and Care Plans (EHCP) have more complex needs and sometimes require placements in Independent/Non-Maintained Special Schools (INMSS) and colleges where their needs can be more appropriately met. As of February 2019, there were 99 children and young people placed in pre and post 16 INMSS provisions. The estimated cost to the Council of placements for 2018/19 financial year is c. £4.6m.

The South West Children's Commissioning Group is seeking to procure a sub-regional flexible framework for the provision of INMSS placements. Authorities who have expressed an interest in being part of this arrangement are: Bristol City Council, Bournemouth Council, Dorset Council, Gloucestershire Council, Somerset County Council, Wiltshire Council and Wokingham Council. Bristol City Council are to be the Lead Authority.

The sub-regional Framework will allow the Council to buy placements for young people from a range of pre-approved providers. The benefit of this collaborative agreement will be that the local authorities using the Framework will work together to improve services through improved, shared quality monitoring, managing the market and pooling information.

DECISION:

1. To agree to enter the sub-regional framework for Independent Special School and Non-Maintained Special School placements.
2. To approve the inter-authority agreement process and associated costs

REASONS:

The Council was previously part of a Gloucestershire led framework which ran from 2013-2017, following this the South West group joined onto West Sussex County Council's Dynamic Purchasing System for one year. Since this agreement ended in April 2018 all placements have been spot purchased.

ISS/NMSS and independent specialist colleges are regulated and funded differently to our own schools. The council must therefore have a robust and transparent procurement process in place for effective commissioning and monitoring of day and residential educational placements at independent or other non-maintained schools and colleges, or residential care placements which have an educational aspect, for children and young people up to the age of 25.

The arrangement of a South West Framework will result in a pool of qualified and appropriately vetted INMSS service providers being created. These providers will be required to meet INMSS regulatory and inspection requirements and perform well against national minimum standards. There is a need to ensure that placements provide good value for money and are provided based on a robust assessment of individual needs. North Somerset will benefit from access to a wide range of providers and maintain South West sub-regional links.

OPTIONS CONSIDERED:

1. To join with other South West authorities to create a new INMSS Flexible Open Framework (recommended option).

The framework will provide flexibility in that providers can join at regular intervals to refresh the market and maintain value for money. It also encourages market development because of its transparent nature which gives all providers the intelligence they need to develop services in line with need and demand across the region. The framework will include a pre-qualified list of accredited service providers to whom local authority purchasers may award contracts for services.

2. For North Somerset to undertake a tendering process independently of the South West group.

This option provides less flexibility in provision and limits the council's purchasing power and potential economies of scale afforded by the flexibility and size of a multi-council framework. It would also require significant investment by the council to create the additional resources required to design, implement and manage a stand-alone framework and to complete its own checks on providers to ensure continued quality.

3. Spot purchase all placements

This will not allow us the benefits that a sub-regional framework provides, and we would be unlikely to secure the best value as spot prices will usually be the most expensive method of purchasing as the less guaranteed the volume, the more expensive the cost will be.

FINANCIAL IMPLICATIONS:

Costs

Costs associated with setting up the framework will be shared equally amongst the participating authorities. A final cost has not yet been determined, however it is not expected to exceed £8,000 per authority for the 5 year period. There is an upfront cost of £3,000 for signing up to pay Bristol for setting up and managing the framework. There will be further costs depending upon the amount of work needed to manage the framework and process applications to be put onto the framework. These costs haven't been confirmed but the total amount shouldn't exceed £8,000 for the 5 year period.

The framework will identify unit prices for services which can be called-off under it, to meet the individual needs of the young people nominated to receive the service. Current estimated spend by the Council for the 2018/19 financial year is £4.6m. The volume of activity will be dependent on individuals' needs as this will be a spot-based framework contract. The prices of placements shall be fixed for the life of the contract, expected to be four years.

This arrangement will have a commercial focus in terms of continuing to deliver financial benefits through a further competition whilst also ensuring high quality support to children and young people.

Funding

The regional agreement will provide the mechanism for commissioning individual placements for children and young people. These placement contracts will use an adapted version of the National Special Schools Contract as a basis. Funding for placements comes from the schools' budget, which is funded by the Dedicated School Grant (DSG). Given the sustained pressure on this budget, it has been increased to £5m as part of the 2019/20 budget setting process.

LEGAL POWERS AND IMPLICATIONS

Sections 33 and 39 of the Children and Families Act 2014 states that the child's parent or the young person with an EHC Plan has the right to request a particular school, college or other institution if that is their preference and the Council secure this provision unless the school is unsuitable for the age, ability, aptitude or special education need of the child; or the child's attendance at the school would be incompatible with the provision of efficient education for others, or the efficient use of resources. These schools, colleges and institutions must admit pupils where named in an EHC Plan.

Clause 86 of the Education and Skills Funding Agency High needs funding 2019 to 2020 Operational Guide states securing the provision of SEN placements is to be considered as a non-economic activity, with the result that the agreement between a local authority and institution to make SEN provision required by an EHC plan is not regarded as a public service contract for the purposes of the Public Contracts Regulations 2015. Where a child or young person has an EHC plan, placements must be made through the statutory assessment process set out in the Children and Families Act 2014,

CONSULTATION

The lead authority, with support from the other participating authorities, will facilitate market engagement and consultation as part of the commissioning process. North Somerset Council's SEN, Legal and Procurement teams have been, and will continue to be, engaged throughout the process.

RISK MANAGEMENT

Key providers fail to join the Framework.

Mitigation: As a large number of authorities will be signed up to the framework we expect the majority of current providers to join the framework, and market engagement will be undertaken as part of the procurement process to encourage providers to join. Further regional and local market engagement can be arranged as required as new providers come into the arena.

EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? Yes.

The impact on all equality groups is low. The proposal does not discriminate against any protected groups and actively seeks to improve outcomes for children and young people with additional needs by ensuring that they are able to have access to education and social care provision which meets their individual needs.

CORPORATE IMPLICATIONS

The commissioning of this dynamic purchasing system will positively support the Council in improving outcomes for children and young people with Special Educational Needs and Disability as set out in the North Somerset Schools Accessibility Strategy 2016-19 (Accessibility for Disabled Pupils). By ensuring quality placements the FLEXIBLE FRAMEWORK will support SEND children and young people to access all the education, employment, training and social opportunities that they need to enhance their life chances, prepare them for adulthood and enable them to contribute to their community.

BACKGROUND PAPERS:

N/A.

SIGNATORIES:

DECISION MAKER(S):

Signed: Sheila Lush

Title: Director, People and Communities

Date: 8 May 2019

WITH ADVICE FROM:

Signed: W. Packer

Title: Education Inclusion Service Leader
and Virtual School Headteacher

Date: 8 May 2019

Footnote: Details of changes made and agreed by the decision taker since publication of the proposed (pre-signed) decision notice, if applicable:



