

Report of Head of Complex Needs

Report to Director of Children & Families

Date: 18th May 2017

Subject: Request to award cooperation agreements to a number of academies in relation to resourced and partnership arrangements under the exempt contracts clause (d) and clause 1.5.2 of Contract Procedure Rules



Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The purpose of this report is to seek approval to award cooperation agreements under the exempt contracts clause and clause 1.5.2 of Contract Procedure Rules in order to meet the Local Authority's obligations under the Children & Families Act 2014.
2. We have a number of resourced & partnership provisions within mainstream schools that have been in place with Leeds schools and SILCs for a number of years. The provisions are funded through the High Needs Block. The arrangements have largely operated on an implied contract basis since their inception and we now wish to formalise these arrangements.
3. Awarding these cooperation agreements under the exempt contracts clause of Contract Procedure Rules will ensure: the Local Authority meets its obligations under the Children & Families Act 2014; funding is spent wisely and learners with SEND placed in resourced provisions achieve good outcomes.

Recommendations

1. The Director of Children & Families is recommended to award cooperation agreements to a number of academies under the exempt contracts clause of Contract Procedure Rules in order to meet the Local Authorities obligations under the Children & Families Act 2014 (see appendix for list of current resourced and partnership arrangements). The agreements shall commence on the 1st September 2017 and expire on the 31st August 2022, with the option to extend for five further periods of 12 months.
2. The Director of Children & Families is recommended to approve the award of cooperation agreements to any newly formed academies with resourced or partnership arrangements in place not currently noted in appendix 2.

1 Purpose of this report

- 1.1 To seek approval to award cooperation agreements under the exempt contracts clause and clause 1.5.2 of Contract Procedure Rules in order to meet the Local Authorities obligations under the Children & Families Act 2014.

2 Background information

- 2.1 We have a range of specialist education provision in Leeds to support SEND learners with a wide range of needs. We have a number of resourced & partnership provisions within mainstream schools that have been in place with Leeds schools and SILCs for a number of years. The provisions are funded through the High Needs Block. The arrangements have largely operated on an implied contract basis since their inception and we now wish to formalise these arrangements by putting in place formal service level agreements with the maintained schools/SILCs and cooperation agreements with the academies.
- 2.2 This report relates to approval to award cooperation agreements where the resourced school is an academy or where a partnership arrangement includes an academy. There are currently three resourced academies, where the total estimated annual value is £644k. There are also some partnership arrangements between SILCs and academies where the local authority funds the SILC and the SILC agrees arrangements with the academy. It is not possible to accurately estimate the value of these at this stage as some partnership arrangements are currently in development. However, the estimated total spending across all resourced and partnership provisions in 2017/18, is £4.2m.
- 2.3 Service level agreements with maintained schools and SILCs will mirror the requirements within cooperation agreements but no delegated decision is required to award these. For any schools that become academies in the future, cooperation agreements will need to be awarded rather than SLAs but conversion to academy status in itself will not impact on the value of the arrangements. The value of arrangements is determined by the number of resourced places and the needs of children and young people.
- 2.4 Formalising the arrangements will ensure we have clear expectations of all partners and will ensure accountability for the high needs funding. It will also strengthen our partnership working with schools.
- 2.5 It is our intention to establish formal agreements with all resourced/partnership schools/SILCs to commence on September 1st 2017.
- 2.6 The cooperation agreements will include a requirement for the agreement to be reviewed by all partners at least annually. There will be a break clause for either party to give notice to cease the provision. Due to the complexity of need of the learners; we are suggesting a notice period of one academic year's notice as this allows a smooth and measured transition for all learners to alternative provision.
- 2.7 **Resourced provisions within mainstream schools:** Resourced provisions within mainstream schools support children and young people with SEND to

access the majority of their learning and school life in an inclusive mainstream environment, alongside their peers, whilst also being able to access additional resources and expertise to support their specific needs. The amount of time they spend in the mainstream environment, and how they access it, will depend on their individual needs and their personalised plan. Different types of resourced provision offer specific resources and expertise to meet different types of need i.e. speech & language resourced provision, physical & medical resourced provision.

- 2.8 The resourced provision is funded based on the national 'Place Plus' funding mechanism. The school currently receives £10k per commissioned place p.a. plus the level of funding per learner established by means of the Funding for Inclusion Scheme (FFI), or the minimum funding guarantee as per the Education Funding Agency High Needs Funding Operational Guide.
- 2.9 The level of Place Plus Funding is dictated by the Education Funding Agency.
- 2.10 **Specialist Inclusive Learning Centre (SILC) Partnership schools:** Some children and young people have complex needs and require the support offered by a SILC, but can also benefit from attending a mainstream school for some or all of their education. Leeds SILCs work in partnership with identified mainstream schools so that children and young people on the roll (or register) of the SILC can access a local mainstream school environment for some or all of their learning while continuing to access high level support and resources and facilities from the SILC. The amount of time they spend in the mainstream environment, and how they access it, will depend on their individual needs and their personalised plan.
- 2.11 When children and young people attend a SILC partnership school, they will remain on the roll (or register) of the SILC and the SILC's governing body continue to be responsible for their well-being and achievement.
- 2.12 All the children and young people who access SILCs will have complex needs and a Statement or Education Health and Care plan, which will name the SILC partnership school. The SILC is funded by the Local Authority to facilitate the partnership provision. The funding is based on four units of FFI (Funding for Inclusion) per learner.

3 Main issues

- 3.1 The Head of Complex Needs wishes to ensure robust contract arrangements are in place with all institutions in receipt of Funding for Inclusion, as funded from the High Needs Block of the Dedicated Schools Grant.
- 3.2 Robust contract arrangements will ensure:
- The Local Authorities meets its obligations under the Children & Families Act 2014.
 - Funding is spent wisely.
 - Learners achieve good outcomes in accordance with their Education Health & Care Plan.
 - Providers in receipt of Funding for Inclusion funding meet their obligations under the Children & Families Act 2014.

3.3 The learning institutions are identified within each learner's EHCP; based on a consultation with the learner, their parent/carer and their Casework Officer. These contracts fall under the exempt contracts as it is not possible to award these contracts on a competition basis.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.2 Consultation has commenced with the schools/SILCs to make them aware of our plans to formalise the arrangements.

4.1.3 Legal (procurement) has been consulted to gain the legal expertise around the agreements.

4.1.4 The Lead Member for Children's Services was consulted on 6th February and gave approval for this decision to be published on the Forward Plan.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 The equality, diversity, cohesion and integration screening form is attached as Appendix 1. This form identifies that an impact assessment is not required in this case.

4.3 Council policies and Best Council Plan

4.3.1 The awarding of these cooperation agreements supports the councils priorities to:

- Spend money wisely.
- Ensure the most vulnerable are protected.
- Increase numbers in education, employment or training.
- Improve support where there are additional health needs.

4.4 Resources and value for money

4.4.1 The individual values of agreements are dependent on the number of high needs learners and their special educational needs provision.

4.4.2 The most appropriate learning provision is determined in consultation with the Casework Officer, the learner and their parent/carer. The Casework Officer will make a recommendation of provision based on the learner's needs and a consideration of best value for the council.

4.4.3 The Head of Complex Needs only wishes to contract with providers that are registered with the Education & Skills Funding Agency (ESFA) to ensure funding is received for high needs students accordingly, and that the place funding of the student's placement is funded directly by the ESFA. This should also ensure that the high needs student numbers are accurately recorded for Leeds, and included for Authority funding purposes.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The estimated annual spend on resourced provision for Place and Top Up funding with academies in 2017/18 is £644k; we therefore deem that this decision is subject to call-in. This decision is on the forward plan.
- 4.5.2 The decision to award these cooperation agreements falls under the exempt contracts clause and clause 1.5.2 - joint services arrangement with another public body - of Contract Procedure Rules. These learning provisions are named in learner's Education Health and Care plans, based on their needs. It is therefore impossible to subject this decision to competition.
- 4.5.3 In making their final decision, the Director of Children's Services should be satisfied that the course of action chosen represents best value and ensures the local authority meets its obligations under the Children & Families Act 2014.

4.6 Risk Management

- 4.6.1 There is a risk of increased expenditure should the decision be taken to award contracts to providers not designated as resourced or partnership provisions.
- 4.6.2 If robust contract arrangements are not put in place with academies in receipt of element 3 funding there is a risk that the Local Authority will not meet its obligations under the Children & Families Act, or that learners will not achieve good outcomes.
- 4.6.3 As the provisions have operated on an implied basis for a number of years we do not foresee any significant risks in formalising the arrangements. This decision report is purely around formalising existing arrangements and is not about creating any provisions.

5 Conclusions

- 5.1 Awarding these cooperation agreements under the exempt contracts clause of Contract Procedure Rules will ensure:
- The Local Authority meets its obligations under the Children & Families Act 2014.
 - Funding is spent wisely.
 - Learners with SEND placed in resourced provisions achieve good outcomes.

6 Recommendations

- 6.1 The Director of Children & Families is recommended to award cooperation agreements to a number of academies under the exempt contracts clause of Contract Procedure Rules in order to meet the Local Authorities obligations under the Children & Families Act 2014 (see appendix for list of current resourced and partnership arrangements). The agreements shall commence on the 1st September 2017 and expire on the 31st August 2022, with the option to extend for five further periods of 12 months.

6.2 The Director of Children & Families is recommended to approve the award of cooperation agreements to any newly formed academies with resourced or partnership arrangements in place not currently noted in appendix 2.

6.1 Background documents¹

None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.