

Report of Commissioning and Market Management

Report to Director of Children and Families

Date: 11th February 2019

Subject: Request to extend and vary cooperation agreements with Area Inclusion Partnerships



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 extend and vary cooperation agreements with Area Inclusion Partnerships in Leeds (AIPs) for the delivery of services to keep children and young people included in high quality learning, putting the interests of the child before those of school structures and organisations first and safeguarding their right to a mainstream education wherever this is possible and meets their needs).
2. These cooperation agreements were first awarded in 2017-18 for a period of 12 months with the option to extend by a further 12 months. The total value of these agreements is approximately £5.2m per annum.
3. Arrangements with AIPs are long-standing but the need for these cooperation agreements arose due to the need to clearly define the focus of the funding to support inclusion and to improve the monitoring and evaluation of the funding use and outcomes for children and young people.
4. The 12 month extension has been taken up and will expire on 31st March 2019. The intention is to award new longer-term agreements, once there is greater clarity on the position for this area of education nationally, as a [significant parliamentary review](#) has recently reported and its recommendations are still being considered at national level. It is therefore proposed that the existing agreements are varied to add a further 12 month extension option and that this extension is taken up to 31st March 2020.

5. The cooperation agreements fall outside of the Public Contract Regulation 2015 pursuant to Regulation 12(7). Also for the purpose of the Council's Contract Procedure Rules Clause 1.5.2 will apply as the Public Contracts Regulations 2015 do not apply and they are arrangements with other public bodies. Therefore these agreements are not procurements for the purposes of the Public Contract Regulations 2015 and the Council's Contract Procedure Rules. This is a key decision because the value of the agreements is over £250k per annum. The level of funding provided each year will be the subject of a separate annual decision.

Recommendations

1. The Director of Children & Families is recommended to approve the extension and variation of cooperation agreements with AIPs for the delivery of services to keep children and young people included in high quality learning for the period 1st April 2019 to 31st March 2020 at a total value of approximately £5.2m.

1 Purpose of this report

- 1.2 To seek approval to extend and vary cooperation agreements with AIPs under the exempt contracts clause and clause 1.5.2 of Contract Procedure for the delivery of services to keep children and young people included in high quality learning for the period 1st April 2019 to 31st March 2020.

2 Background information

- 2.1 AIPs are non-statutory partnerships which bring together groups of primary and secondary schools (both maintained and academies) in the North, South, West, North East and North West areas of Leeds to promote strategies and jointly commission services which improve outcomes for vulnerable children and young people. Leeds City Council devolves High Needs Block funding to the AIPs in order to support inclusion in a manner that best meets the needs of each young person in each area of the city.
- 2.2 AIPs share a moral responsibility to ensure every child and young person in its locality has access to suitable education for their age, aptitude and special needs if any. To create this outcome, the AIPs must work collaboratively to ensure a culture of positive relationships based on trust and a shared sense of purpose.
- 2.3 The context of these arrangements is the 2015 independent review by the ISOS Partnership advocated identification of a 'core offer' of support from Leeds AIPs to establish more consistency and equity across the city and to respond to the 2014 Children and Families Act Local Offer regulations. Discussions with AIP chairs after the review determined a basic targeted support offer from AIPs across Leeds, expressed as follows:

- a) Prevent and promote:** building capacity in schools to promote SEMH for all children and young people and to support good practice in schools supporting children and young people with SEMH needs and related behaviours, in line with the Leeds local offer of support from schools for SEMH needs.

Using a multi-agency early help approach to ensure additional needs are met appropriately and at the first opportunity.

The Provider will work alongside Clusters (Clusters provide multi-agency support for the family) to ensure that appropriate family support is in place to enable the young person to succeed in the classroom.

- b) Provide:** commissioning of support for local schools working with an individual child or young person with SEMH needs and related behaviours to access education:
- Support should be additional to that which schools are expected to offer from within their existing resources, as set out in the 'Leeds local offer for SEMH'.
 - Intensive outreach support provided in school.

- Could include quality assured short-term intensive support in a physical 'offsite' provision/'alternative' provision (a learning support unit run by a school or commissioned through another provider e.g. voluntary sector providers, work based learning providers, colleges, such as through 11-19 framework). Generally it will be short-term and aimed at successful re-inclusion in mainstream education.
- Provide 6th day cover for permanently excluded children through to year 11.
- Provide support to parents of children who have been permanently excluded children through the legal process and into, if appropriate, the Fair Access Process.

c) Progress: ensuring that children and young people accessing support as above make progress in learning, and that those excluded and/or accessing alternative provision have access to the best learning environment that enables and supports them with successful and timely re-inclusion in mainstream education (or, where needs are identified as being highly complex, are supported to access an EHC needs assessment and make a successful transition into specialist education).

- 2.4 Cooperation agreements were first awarded in 2017-18 for a period of 12 months with the option to extend by a further 12 months. The total value of these agreements is approximately £5.2m per annum.
- 2.5 Arrangements with AIPs are long-standing but the need for these agreements arose due to the need to clearly define the focus of the funding to support inclusion and to improve the monitoring and evaluation of the funding use and outcomes for children and young people.
- 2.6 The aim of the cooperation agreements is to proactively include all schools in Leeds and influence their strategies to support children and young people with social, emotional and mental health (SEMH) needs, and aims to work with governing bodies or head teachers. The Council is committed to providing senior leadership capacity to the development of the SEMH strategy and working with schools through the AIPs. The Director of Children and Families, Head of Learning Inclusion and Head of Learning Improvement contribute to joint commissioning arrangements through membership of the AIP Chairs Group. The Council will use the AIP Chairs Group to contribute to strategic assessment of priorities for the High Needs Block.
- 2.7 AIPs are performance monitored against the following outcomes:
- Achieve and maintain 'zero permanent exclusions' in Leeds
 - Significantly reduce fixed term exclusions and the duration of exclusion and in particular the exclusions amongst over-represented groups
 - Improve attendance
 - Improve the progress and quality of the learning outcomes and destinations (including timely return to mainstream education) of children and young people who experience learning in an alternative provision.

- Reduce the time that any child or young person is missing out on 25 hours of education (unless otherwise indicated by medical advice).
- Ensure timely early help assessment where there are additional needs for the child or young person and their family, particularly when a child has had three or more fixed term exclusions.
- Offer parents/carers and young people access to guidance and advocacy where there is a risk of exclusion within two days of notification.
- Offer parents/carers support on the legal process around permanent exclusion within two days notification of a permanent exclusion.
- Support progression of children and young people in meeting individual needs and identified outcomes

3 Main issues

- 3.1 The 12 month extension of current agreements has been taken up and will expire on 31st March 2019. The intention is to award new longer-term agreements once there is greater clarity on the position for this area of education nationally, as a [significant parliamentary review](#) has recently reported and its recommendations are still being considered at national level. It is therefore proposed that the existing agreements are varied to add a further 12 month extension option and that this extension is taken up to 31st March 2020.
- 3.2 All schools within each AIP area will be required to sign an extension and variation agreement, ensuring all continue to be aware of their contractual obligations and AIPs are able to effectively support and challenge schools.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Consultation was extensive with AIPs during the process of writing the current agreements, agreeing the process for award and how the agreements were to be monitored. There continues to be regular discussion with AIPs, including at AIP Chairs meetings, chaired by the Director for Children and Families.
- 4.1.2 Lawyers from Procurement and Commercial Services have been consulted to gain the legal expertise around the extension and variation of the agreements.
- 4.1.3 The Executive Member for Learning was consulted on 3rd December 2018 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 extension and variation of these cooperation agreements supports the Children and Young People's plan priorities to:

- Ensure that the most vulnerable are protected.
- Increase the number of children and young people participating and engaging in learning
- Improve achievement and attainment for all
- Help young people into adulthood, to develop life skills, and be ready for work

4.3.2 The context within which the AIPs operate is contained within the Leeds Children and Young People's Plan 2015-19: from Good to Great, the Future in Mind: Leeds, SEMH strategy and health-sponsored Local Transformation Plan.

4.4 Resources and value for money

4.4.1 Extending these agreements will help ensure services provide value for money within budgets which have decreased in line with significant pressures on the High Needs Block. Leeds City Council funds the Area Inclusion Partnerships (AIPs) to deploy the funding devolved from the High Needs Block for the purpose of promoting inclusion, access to 25 hours of education per week and preventing exclusions from Leeds schools.

4.4.2 Total funding for all five AIPs for the period of the extension will be approximately £5.2m (the total value in 2018/19 is £5,255,550 and it is likely this value will remain the same or similar to this for 2019-20). This includes a sum of 'base' funding for promotion of inclusion in schools, and further funding to deliver places on programmes of support for vulnerable learners at risk of exclusion from school, often in off-site provisions/premises. Individual schools/members of each AIP, also make financial contributions to their AIP in order that they can enhance their offer of support to these vulnerable learners.

4.4.3 The base funding is allocated from the High Needs Block, which is managed by the Council. AIP funding is not from the Schools Block. The allocations for each AIP are calculated annually using school level data. Funding is distributed on the following basis:

- Pupil numbers 25%
- Targeted formula allocations (FSM, IDACI, low attainment etc.) 60%
- Targeted formula allocations plus pupil premium 15%

4.4.4 This devolved funding amounts to approximately £3,155,550 for 2018/19. The remaining funding is allocated on a place basis with an agreed number of places in each area (210 places in total at £10k per place). This devolved funding does not reflect the true cost of typical places, but represents a subsidy; with the rest of the true cost – which is generally a total of around £20,000 per place, although this varies according to the specifics of the provision – generally to be paid by the school referring their pupil to the place. The overall funding is managed by each

AIP management board. AIPs can determine, depending on the needs of individual pupils, whether to deliver their own inclusion services (outreach into schools) and create their own local alternative provision or commission external provision.

- 4.4.5 LCC will continue to devolve funding from the High Needs Block subject to annual review and regular evaluation of performance.
- 4.4.6 A clear process for scrutiny of the termly returns and feedback to each AIP has been established. This includes feedback to schools and governing bodies on the progress made. A termly report template has been developed in consultation with AIP leads and linked to contract outcomes. This will continue to be refined.
- 4.4.7 A group of officers with Children and Families, supported by a staff member from Commissioning team:
- receive and analyse the data/commentary reports from each AIP each term
 - meet with the AIP Chair/Lead to discuss these returns as part of the contract arrangements
 - provide the LA with assurance of contract outcomes and report to CFSLT or other governance as required

4.5 **Legal Implications, Access to Information and Call In**

- 4.5.1 The annual value of these five agreements in 2018/19 is £5,255,550. It is likely this value will remain the same or similar to this for 2019-20. We therefore deem that this decision is key and subject to call-in, being over the £250k per annum threshold. This decision was published on the Forward Plan on 5th February 2019 and the decision can be taken from 6th March.
- 4.5.2 There is no provision within the current cooperation agreements for a further extension. Therefore this decision is to vary the agreements to allow for a further 12 month extension and then take up this extension to 31st March 2020.
- 4.5.3 The decision to extend and vary these cooperation agreements falls within Clause 1.5.2 of the Contract Procedure Rules as it is a cooperation between public bodies and falls outside of the Public Contract Regulations 2015 pursuant to Regulation 12(7). Therefore it is not a procurement for the purpose of the Contract Procedure Rules or Public Contract Regulations 2015. The level of funding provided each year will be the subject of a separate annual decision.
- 4.5.4 In making their final decision, the Director of Children and Families should be satisfied that the course of action chosen represents best value and ensures the local authority meets its obligations under the Children and Families Act 2014 Local Offer Regulations.

4.6 **Risk Management**

- 4.6.1 If this decision is not approved, we will continue to fund the AIPs for this activity from 1st April 2019 but we will not have legally binding agreements in place by

which we can properly hold them to account and they can effectively support and challenge schools in their area. Ultimately this will impact on the outcomes we can achieve for children and young people and our ability as a city to ensure they have access to high quality mainstream education.

- 4.6.2 The risk of challenge is minimal given that these are cooperations between two public bodies and fall outside of the Public Contract Regulations pursuant to Regulation 12(7), and are therefore it is not a procurement for the purpose of the Contract Procedure Rules.

5 Conclusions

- 5.1 Extending and varying these cooperation agreements will ensure the following until longer-term agreements can be put in place from 1st April 2020:
- The Local Authority meets its obligations under the Children and Families Act (2014) Local Offer Regulations.
 - Funding is spent wisely.
 - Children and young people in Leeds are included in high quality learning, the interests of the child are put before those of school structures and organisations and their right to a mainstream education is safeguarded wherever this is possible and meets their needs.

6 Recommendations

- 6.1 The Director of Children & Families is recommended to approve the extension and variation of cooperation agreements with AIPs for the delivery of services to keep children and young people included in high quality learning for the period 1st April 2019 to 31st March 2020 at a total value of approximately £5.2m.

7 Background documents¹

- 7.1 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.