

## Wiltshire Council

### Cabinet

26 March 2019

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**Subject:**                    **Proposal to join a Flexible Dynamic Purchasing System (DPS) for Independent and Non-Maintained Special Schools (ISS) for children with SEND.**

**Cabinet Member:**   **Councillor Laura Mayes Cabinet Member for Children, Education and Skills**

**Key Decision:**        **Key**

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#### **Executive Summary**

Where a child or young person has special educational needs and/or disability (SEND) and their needs cannot be met within a mainstream or maintained special school, a placement in an independent or non-maintained provision may be required.

For these independently provided placements, Wiltshire Council has been a partner in the West Sussex led Dynamic Purchasing System (DPS) which expired on 28 February 2019.

Wiltshire Council has engaged with a number of other Local Authorities to consider future shared procurement options in this area. Working in collaboration with other Local Authorities is considered beneficial for both the Market and Local Authority. This report is to identify and agree the appropriate partnership arrangement and DPS for Wiltshire council for the next five years for independent specialist schools.

#### **Proposal(s)**

Key decisions:

- To join the Dynamic Purchasing System arrangement (DPS), with Bristol City Council as the procurement lead on behalf of Wiltshire Council, to support the commissioning of placements from independent and non-maintained specialist provision for children with SEND aged up to the age of 16 years.
- To Delegate authority for award of contract resulting from this tendering process to Terence Herbert, Corporate Director, in consultation with the Cabinet Member for Children, Education and Skills

**Reason for Proposal(s)**

Working collaboratively with a range of local authorities which will assist with information sharing and enhanced provider engagement. This opportunity will also increase Wiltshire's leverage and assist in improved cost management.

**Terence Herbert**  
**Corporate Director**

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**Key Decision: Key**

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### **Purpose of Report**

1. To seek approval to join a Dynamic Purchasing System (DPS) which is being led by Bristol City Council and enter into resulting agreements. This will support the commissioning of placements for children up the age of 16 with SEND, where needs cannot be met within local special schools.

### **Relevance to the Council's Business Plan**

2. The proposal is relevant to the following priorities and objectives laid down within the Council's Business plan:
  - Protecting the Vulnerable by ensuring good quality placement quality management
  - Joined up Health and Care (Integration) by working with regional and CCG partners
  - Working with Partners as an Innovative and effective Council
  - Commercialism by ensuring that public funds are well managed

### **Background**

3. Wiltshire Council currently commissions placements from a number of independent specialist schools to support the needs of young people with SEND whose needs cannot be met within local special school provision.
4. To date not all providers have been through robust formal procurements, with a high proportion of these placements being commissioned as SPOT provision with basic quality checks being undertaken and limited financial audits.
5. It has been identified within the Placements Commissioning Strategy (2017-2022) that there will be an on-going demand for Specialist School provision due to increased housing developments and the movement of troops back into Wiltshire and therefore this needs to be taken into consideration moving forward.

## Main Considerations for the Council

6. As this procurement is an evolving one, this is an opportunity for Wiltshire to influence and shape future specifications and requirements to meet local need.
7. Costs for joining are proposed at £3000 with an ongoing maintenance cost of approximately £800 per annum, which include of subsequent rounds within the procurement to allow for new entrants and facilitation of market engagement moving forward.
8. The key objectives of the DPS support key objectives set out within Wiltshire Council's Business Plan
9. A standard cost model will be developed to assist the LA with benchmarking of core costs and provide a cost management mechanism
10. Placements and funding arrangements are made at Complex Needs Panel and the SEND panel and the estimated contributions towards all ISS placements for 2019/20 are found in the table below:

<b>Independent Special School Budget</b>	<b>Budget 19/20 £m</b>
Education Element (DSG <sup>1</sup> )	£8.662
Social Care Element (Local authority)	£1.870
Health and Medical Needs (CCG)	£0.093
<b>TOTAL Estimated Expenditure 2019/20</b>	<b>£10.625</b>

## Overview and Scrutiny Engagement

11. No implications

## Safeguarding Implications

12. The Multi Agency Safeguarding Hub (MASH) will provide a consistent approach to safeguarding Children within Wiltshire providing a person-centred, multi-agency approach to investigating any suspected incidents of abuse and neglect and to changing outcomes. Safeguarding will form part of the Quality Assurance process within the Evaluation of tender submissions.

## Public Health Implications

13. No implications

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<sup>1</sup> Funded from the High Needs Block of the Dedicated Schools Grant (DSG) a ringfenced grant to be spent on educational needs of children with ECHPs.

## Procurement Implications

14. There will be a requirement for procurement engagement with Bristol City Council's nominated procurement lead to have oversight of the process being led by Bristol and assist with any liaison required between legal teams.

## Equalities Impact of the Proposal

15. Following the undertaking of the equalities analysis evidence document, risk and impact is considered low with a total equalities risk score of 1 across all identified criteria.

## Environmental and Climate Change Considerations

16. Due to the nature of this procurement, there are no environmental and climate change considerations because of this paper. The decision in itself has no direct implications for the environment and/or climate change.

## Risks that may arise if the proposed decision and related work is not taken

17. The risks for consideration if the proposal is not approved include:
- Increased number of SPOT placements made
  - Non-compliance with Procurement Regulations
  - Compromise in the quality of provision for children with SEND
  - Further Increase in placement costs
  - Reduced leverage across the market

## Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

18.

Risk	Risk management
No guarantee of Provider engagement	LAs will continue to facilitate Provider engagement events to gain 'buy-in' from key stakeholders
Lack of collaboration of LA's moving forward	Responsibilities are outlined within the partnership agreement as part of the membership and quarterly 'project' meetings are proposed within this arrangement. All potential LA's are keen to drive this project forward to achieve positive outcomes and improved cost management
Impact on resource unknown to date	The LA has a requirement to manage existing providers and this will continue, however collaborative working will assist in managing out of county arrangements
Procurement fails and not undertaken	Bristol has committed to undertake this procurement and have sign off at cabinet level. They have a requirement to address the issues regarding commissioning of

	placements and costs management within this area of the market.
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## **Financial Implications**

19. The High Needs block (HNB) of the Dedicated Schools Grant is under pressure both nationally and locally. Wiltshire remains the 7<sup>th</sup> lowest funded local authority in the country for Schools Funding. One off additional HNB funding from the Secretary of State for 18/19 and 19/20 was most welcome but does not resolve the issue. Schools Forum have agreed to transfer £2.2 million from Schools Funding to support the HNB for 19/20 on the understanding that significant work is done across a plethora of services with a view to reducing expenditure.

## **Legal Implications**

20. Bristol will lead the procurement process and will seek engagement with Local Authority Legal teams in relation to contractual documentation and partnership agreements being entered into.
21. The DPS will be tendered in compliance with the Public Contract Regulation 2015 (“PCR”). The “light touch” tender procedure will be used. Due to the size of the contract, the procurement process will be following the OJEU (Official Journal of the European Union) process. As a result, the advertisement of the procurement will be sufficiently widespread to alert the market to the opportunity. By following the correct process, it will ensure there is little or no risk of challenge on procurement grounds, as well as satisfying the Council’s “VFM” duty.
22. Legal Services will be involved fully within both the procurement process and contract award to ensure that any legal risks within process are minimised.

## **Options Considered**

23. Officers have considered a number of options going forward including:
  - a. Not using a DPS
  - b. Leading our own DPS
  - c. Joining Other DPS arrangements
24. Option a was rejected due to the risks identified above.
25. Option b was rejected due to neighbouring authorities developing their own partnership arrangements, it would potentially duplicate processes that Providers would have already completed and would not have the desired leverage over the market by working in isolation.

26. Option c was considered as the preferred option as outlined within this report. Providers are keen to reduce bureaucracy and saw the initiative of collaboration of LA's as a positive step forward to assist with contract management, cost management and quality issues, therefore increasing buy-in from the market.

## **Conclusions**

27. The Bristol DPS offers us a good way of developing contract management for Wiltshire.

### **Helen Jones (Director - Commissioning)**

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Report Author: Kelly Cullen, Category Manager (Children's Services),

Date of report 13<sup>th</sup> February 2019