

Wiltshire Council

Cabinet

12 December 2023

Subject: Provision of Education for Learners with Social, Emotional and Mental Health Needs (SEMH)

Cabinet Member: Cllr Jane Davies - Cabinet Member for Adult Social Care, SEND and Inclusion
Cllr Laura Mayes - Cabinet Member for Children's Services, Education, and Skills

Key Decision: Key

Executive Summary

Wiltshire Council have a significant need for Primary Day Special Social, Emotional and Mental Health (SEMH) provision in Wiltshire for children with Education Health Care Plans (EHCPs).

Currently, there is no maintained special school provision for primary-aged learners in Wiltshire, despite a growth in demand for SEMH special school places.

At the same time Wiltshire Council is supporting increasing numbers of secondary age pupils who are currently struggling to access mainstream education due to high levels of anxiety, leading to Emotionally Based School Avoidance (EBSA), with a lack of in county provision to support learners in re-integration into school settings.

Due to the current lack of sufficiency Wiltshire Council are currently placing high numbers of children in independent special schools which are expensive and often result in children traveling long distances and being further removed from their local communities.

The Asset Gateway and Capital Programme Board approved in February 2023 for Melksham House to be leased to a commissioned external provider to deliver education provision following required site renovations.

This paper is requesting the commissioning of an external provider to deliver education provision to primary age learners with SEMH, and secondary age children with high levels of anxiety, from September 2024 to meet current levels of demand and reduce expenditure on expensive independent special school placements and support the objectives of safety valve in reducing the current High Needs Budget deficit.

Proposals

Cabinet is asked to:

- 1) Approve the award a 5 plus 5 year contract to an external education provider, to provide 45 places for primary age children and 15-25 places for secondary age young people with EHCPs and Social, Emotional & Mental Health (SEMH) needs in Wiltshire for Wiltshire children and young people. This will include an annual review of the contract.
- 2) Note that the contract award will follow officers completing the tender programme, award, and implementation of a new contract for the provision of OFSTED registered education by 31 March 2024, with a clear mobilisation period to support opening in September 2024.
- 3) To delegate authority to approve and award a new contract and future extensions and all associated documents to the Corporate Director, People, in consultation with the Deputy Leader and Cabinet Member for Children's Services, Education and Skills.

Reason for Proposals

To ensure primary and secondary aged children and young people with EHCPs and Social, Emotional and Mental Health (SEMH) profile are provided with full-time equivalent education in an OFSTED registered school, tailored to their individual needs.

To ensure cost effective placements for children and young people within buildings owned by Wiltshire Council by leasing them to a provider at a peppercorn rent through a new contract

Terence Herbert
Chief Executive

Wiltshire Council

Cabinet

12 December 2023

Subject: Provision of Education for Learners with Social, Emotional and Mental Health Needs (SEMH)

Cabinet Member: Cllr Jane Davies - Cabinet Member for Adult Social Care, SEND and Inclusion
Cllr Laura Mayes - Cabinet Member for Children's Services, Education, and Skills

Key Decision: Key

Purpose of Report

1. This report outlines the proposal to commission an external education provider, to provide 45 places for primary age children and 15-25 places for secondary age young people with EHCPs and Social, Emotional & Mental Health (SEMH) profile of need in Wiltshire for Wiltshire children and young people.
2. Cabinet is asked to authorise the method outlined to complete a tender process that delivers a sufficiency of places for primary aged children and secondary age young people with SEMH needs, not currently being met in other Wiltshire provisions.
3. To delegate authority to approve and award a new contract and future extensions and all associated documents to the Director of People in consultation with the Cabinet Member for Adult Social Care, SEND and Inclusion

Relevance to the Council's Business Plan

4. The proposal is relevant to the following priorities and objectives laid down the Council's Business Plan¹:
5. To support the working themes in the council's business plan 2022 to 2032, commissioning priorities are to:
 - a) **Priority 1** - ensure services are in the right place at the right time
 - b) **Priority 2** - ensure right people receive services in the right place i.e., to provide more High Needs education opportunities closer to home
 - c) **Priority 3** - ensure right service, right price

Background

6. Wiltshire Council currently has no registered SEMH provision for primary age young people with an Education Health & Care Plan (EHCP) who have been unable to access mainstream school settings.

¹ [Business plan - Wiltshire Council](#)

7. There is an increasing number of secondary age children with an EHCP who have been unsuccessful in mainstream due to anxiety. This has led to increasing volumes of young people with Emotionally-Based School Avoidance (EBSA) profiles of need and a resultant increase in requests for full-time alternative provision packages whilst remaining on roll to a mainstream school with no prospect of returning or personalised Education Other Than In School (EOTIS) packages of support.
8. Some families and young people report that they have opted for Elective Home Education (EHE) on an interim basis as they have seen no obvious provision match within Wiltshire's SEND Local Offer.
9. A new registered primary SEMH provision will ensure children are placed in Wiltshire, and receive the education and support to thrive without the need to place in expensive Independent Special Schools (ISS)
10. A new registered secondary provision could be an alternative option for these learners, potentially improving longer-term outcomes for the young people in question.
11. Wiltshire Council has a statutory duty to provide appropriate specialist provision for children and young people with an EHCP that can meet their needs. As there are no providers of SEMH primary special school education in Wiltshire, the cost of providing SEMH education out of county in maintained special schools or more typically (due to sufficiency) in the independent sector, is significant.
12. SEMH places within the Independent Schools Sector cost on average £51k per place, per year – and often rise to £70-80k per annum. In addition, there is the cost of transporting children to Independent Special Schools (ISS) and out of county providers. These costs are met by the High Needs Block, which is £34 million in deficit (table 1).

Provision: EHCP Learners	Volume	Age Range	Current Spend
Existing ISS Step Down Potential	7	Y2-Y4	£549,660 plus transport (average of £11500 applied for each learner= £80,500)
Education Other Than in School	39 (of which 23 awaiting Specialist Provision)	Y3-Y11	£1.2 million
On roll to a mainstream school/not attending - Full Time Equivalent Alternative Provision packages	26 (of which 25 awaiting Specialist Provisions)	Y1-Y11	£975,000
Total	72		£2.8 million

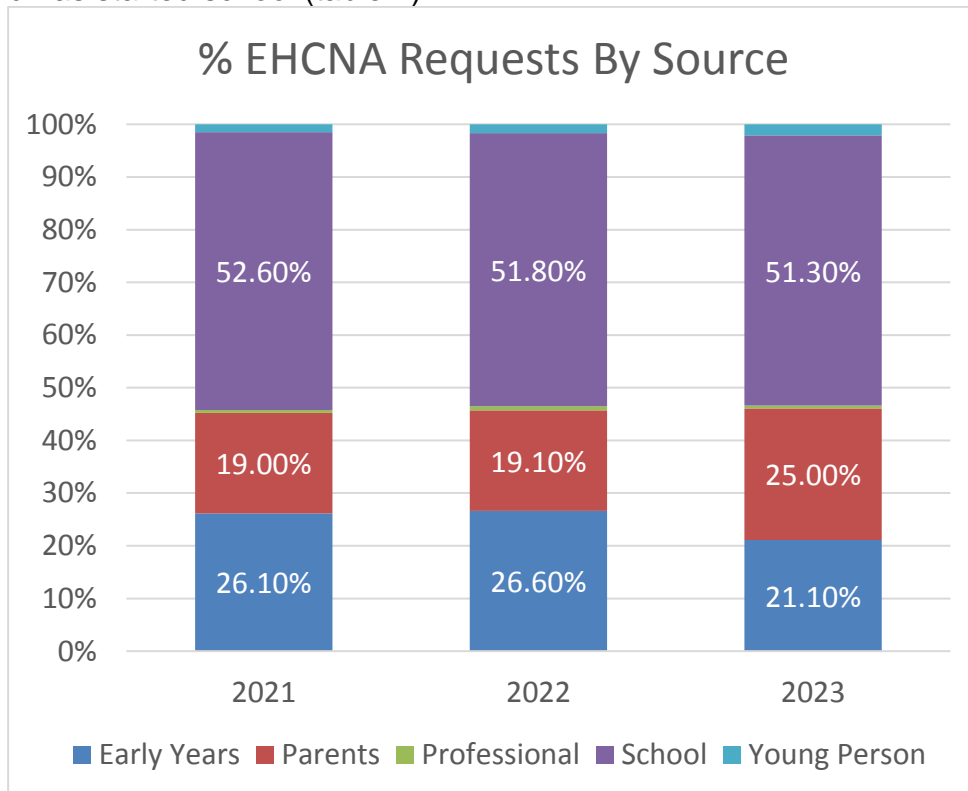
13. In February 2023, the Asset Gateway & Capital Programme Board agreed to lease Melksham House to the successful provider at a peppercorn rent in order to reduce

the ongoing revenue costs of education provision. This would reduce the rental or capital costs of the provider, with the expectation that these cost savings would be passed on to the Council.

- 14. By offering this property through the successful provider, the Council will be able to guarantee long term sufficiency and stability to more Wiltshire children with SEND.

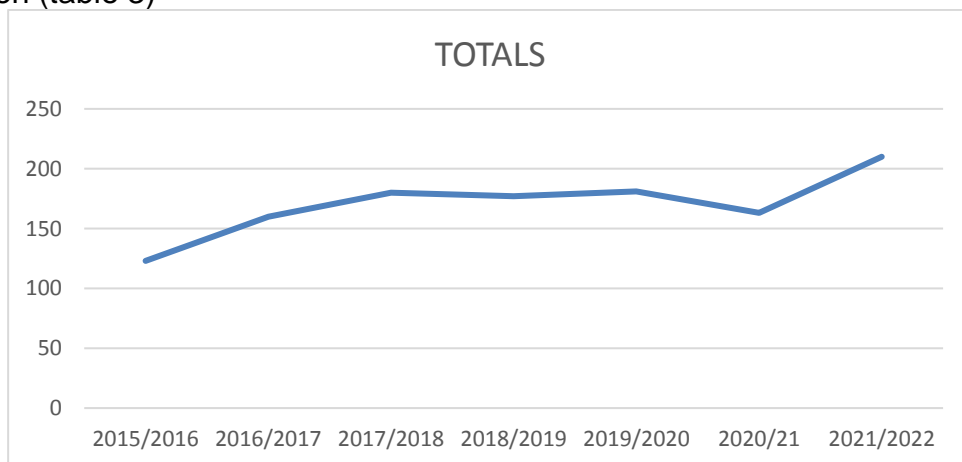
Demand

- 15. There has been an increase in the number of Education Health and Care Needs Assessment (EHCNA) requests for primary age learners. Between 2021 and 2023, this has led to an increase of 6% suggesting SEN is being recognised earlier or once a child has started school (table 2)

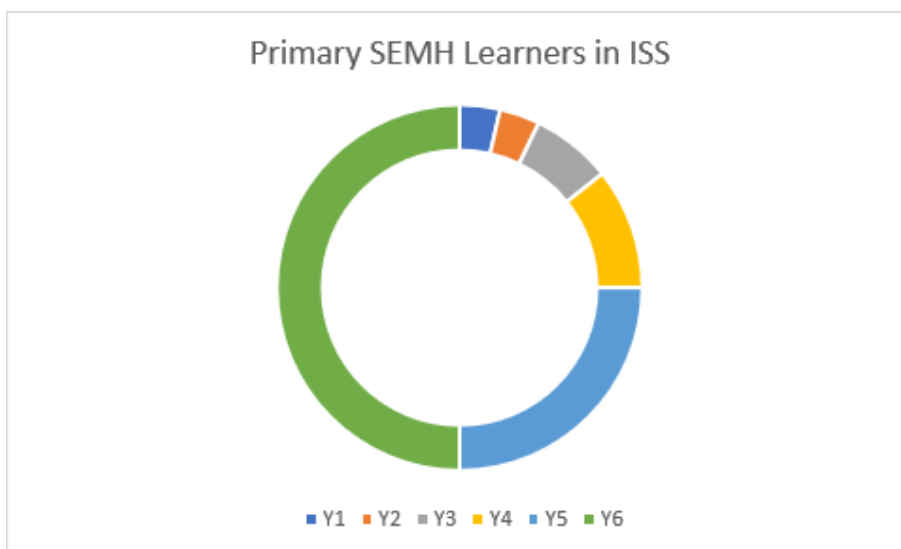


- 16. EHCPs with SEMH as the primary need has increased in Wiltshire by 70.7% between 2015-16 and 2021-22.

- 17. Excepting the impact of Covid in 2020-21 the increase in numbers has consistently risen (table 3)



- 18. There are currently 28 primary age learners in Independent Special School Placements, spread across all year groups (table 4)



19. Additionally, there are a further 43 learners across primary and secondary age ranges who have been identified as not currently in provision that is able to fully meet their needs.
20. There is a clear cohort of young people with EHCPs on roll to mainstream secondary schools who are unable to consistently attend.
21. Some of these young people with EHCPs attend alternative provision but not all
22. For some of these young people, the SEND service commission 16 hours per week packages of support from alternative provision settings who are able to offer this.
23. Wiltshire also has a small but important cohort of learners with EHCPs in this age range who have an agreed EOTAS funding arrangement where multiple alternative provisions are involved, not all have a permanent base .
24. Pathways forward for the above learners can be problematic especially if the young people are unable to transition back into a more formal learning environment.

Main Considerations for the Council

25. Ensuring that there is sufficiency of suitable placements for children and young people with SEND is a statutory requirement.
26. Wiltshire Council has seen increased levels of need for placements for primary age children with SEMH.
27. Currently, due to a lack of in county sufficiency, placements are often made with expensive independent special schools, and out of county day schools which is accompanied by high cost transport requirements.
28. Some parents are choosing to home educate rather than place their children in placements out of county.
29. Through the development of additional sufficiency in county to support children with SEMH, we will be able to reduce the costs of placements, and increase inclusion

through children and young people being closer to home and supported within their own communities.

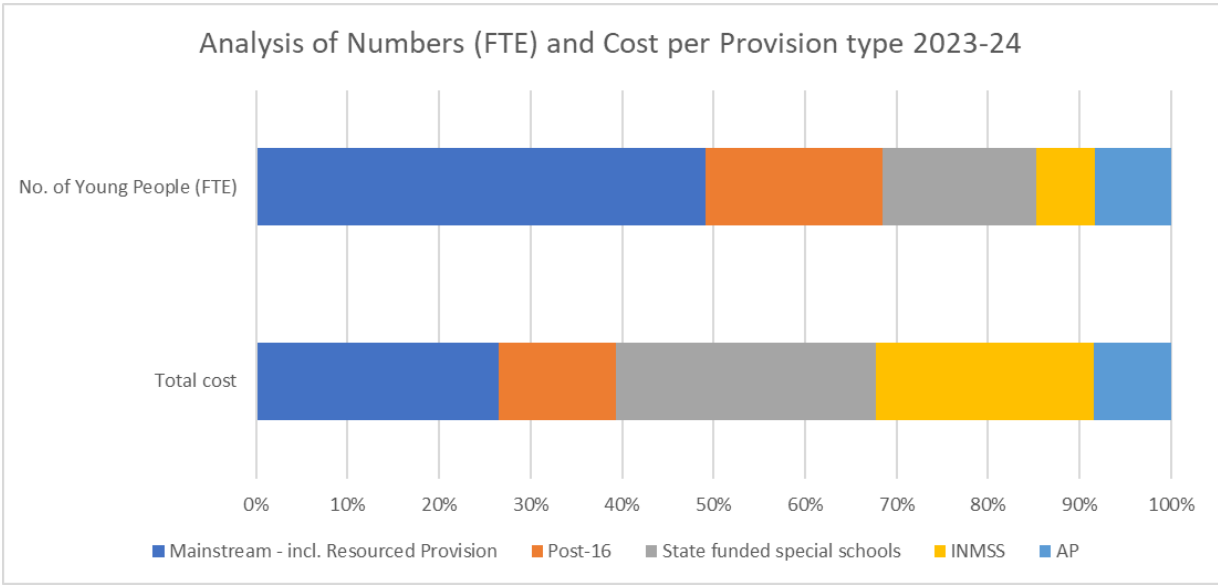
30. To ensure that the contract will meet the needs of children and young people, significant engagement and consultation has taken place across the Council, other local authorities, providers, and with parents and carers. This has focussed on the opportunities to keep children and young people closer to their homes and communities and ensure that the Council will be able to deliver a suitable and safe, and good value provision through the contract.

Funding and Cost Benefits

31. It is intended that through the tender process we will be able to appoint an education provider who is able to support Wiltshire Council in delivering high quality provision at a cost that supports with the aims and objective of the Safety Valve programme.

32. The contract management process will ensure value for money through a rigorous tendering process, and robust contract management.

33. Table 5 shows the current cost of delivering provision for learners with SEND. Current spend on Independent Special School places accounts for 6% of pupils and 23% of cost



34. The provision of in county support will reduce costs and support the reduction of High Needs Block deficit.

35. With the location of the site at Melksham, access to the school will support the reduction of costs for SEN Transport, which is a further contributory factor to the current High Needs Block deficit.

Highlights of the contract

36. The Council will commission 45 primary SEMH places and 15-25 secondary places which will be mobilised and made available over an agreed period, based on demand. This capacity will be provided through the property leased to the provider.

37. Evidence informs us that the needs of children change over time and will vary across our children SEND population. Therefore, the Provider is expected to be agile enough to be able to meet any demand as the needs of children change.
38. It is expected that the tendered price for the contract will be below the current rate available. The Council will reserve the right to review any prices submitted and will only award if there is a reduction in the average cost of places.
39. The education provider will meet the running costs of the building, with maintenance costs based on fair wear and tear.
40. There will be quarterly contract monitoring meetings with the provider, which can be increased or decreased as necessary. The contract is expected to develop a close partnership between the Council and the successful provider, and there may also be some additional benefits to the children and The Council as a result of this closer working.
41. There will be an annual contract review with providers, to agree whether a variation needs to be put in place to respond to changing demand, or the changing needs of children. This will be throughout the lifetime of the contract to provide greater flexibility.
42. As there will be an annual review to ensure that current needs are being met, the contract term is intended to be 5 plus 5 years. This will be more attractive to the provider, and promote more competition and investment, and will help to form the foundation for a long-term positive relationship, which will benefit children and young people, and better value for money for the Council.
43. The successful provider will be expected to maintain Ofsted ratings of Good or Outstanding throughout the lifetime of the contract. If this standard was not met, there would be the ability to move children if appropriate to alternative provision, and there will be clauses within the contract to ensure that the Council was not financially disadvantaged through this process.
44. The Provider will make positive links with local health teams and ensure that the appropriate interventions are delivered to children and young people, as necessary.
45. The contract is asking Providers to deliver social value to the children, families, and communities across Wiltshire through this contract. This will form part of the evaluation process through the tender application and will also be monitored throughout the lifetime of the contract to ensure the Provider is able to put something back into the community.
46. To make best use of the building, there will additionally be an expectation from the provider to facilitate the use out of school hours for education and community use.

Options Considered

47. To reduce the demands on the High Needs Block, the following options for SEMH Primary School have been reviewed by a SEND & Inclusion Task Group:
48. Do nothing: This option was discounted as the current level of need is recognised as significant and ongoing, and Wiltshire are reliant on maintained provision in

neighbouring Local Authorities/out of county Independent Special School to provide Day Special SEMH provision.

49. Work with existing mainstream schools/MATs to provide Specialist SEMH Resource Bases in the Centre/West of the County: There are currently limited buildings with potentially appropriate spaces in the right geographical locations. Specialist teams to deliver/support learners would need to be established.
50. Work with independent special school providers: There are no current Day Special SEMH schools within Wiltshire, ISS options for this age-range are all out of county and require children to travel considerable distances to/from daily. However, there are ISS providers showing interest in sourcing premises and establishing provision within Wiltshire.
51. Development of a bespoke offer, commissioned to support primary SEMH learners, from external education providers with the knowledge and experience to deliver high quality provision.
52. Based on the options available the decision was approved by Strategic SEND to develop a bespoke offer at a council owned premises for an external provider to deliver OFSTED registered education.

Market Engagement and Consultation

53. There has been significant market engagement with providers of specialist education, and their views and ideas have been considered as part of the contract and incorporated where it is appropriate to do so. There has also been considerable interest and support for the project, and the approach from the provider market.
54. Melksham Area Board have been consulted on the proposal and are supportive of the recommendation.
55. Potential providers have had the opportunity to visit the proposed site at Melksham House to understand the space available and ensure that it will be able to meet the needs of all learners.
56. We will continue with further market engagement events as we move towards tender go-live date.
57. An indicative timeline has been developed which is outlined below:

10th January 2024	Tender Goes Live
14th February 2024	Tender Closes
15th – 26th February 2024	Evaluation and Moderation
27 th February 2024	Announcement
28 th -9 th March 2024	Standstill
10 th March 2024	Commencement of Mobilisation Period

Overview and Scrutiny Engagement

58. A briefing has been held with the Chair and Vice-Chair of the Children's Select Committee to discuss this paper and proposals.

Safeguarding Implications

59. Contracts give clear direction on how and when to raise a safeguarding alert to avoid any confusion about who will do this and/or assumptions that someone else will raise the alert.

60. Contracts also ensure that any issues relating to child protection are identified and appropriate referral made to Multi Agency Safeguarding Hub (MASH).

Public Health Implications

61. The SEMH Provision Contract will benefit the overall health and wellbeing outcomes of children and young people in Wiltshire in terms of service continuity and reducing the risk that their health and care outcomes could be compromised if the service was not in place.

62. The new contract will also enable more children and young people to remain closer to home and their communities, continuing to access their current health and support networks for any specific needs or advice.

Procurement Implications

63. A compliant procurement process will be followed in line with Public Contract Regulations 2015.

64. The procurement process will be designed and run, in conjunction with the Commercial and Procurement team.

65. Consideration to social value implications will be informed through our socially responsible procurement policy and will be taken into consideration when developing the specification for the service. Providers are expected to deliver high levels of social value through this contract.

Equalities Impact of the Proposal

66. The equalities impact of the proposed decision is low against all criteria on the Equalities Risk Criteria Table and, therefore, a full Equalities Impact Assessment is not required.

Environmental and Climate Change Considerations

67. It is anticipated that the energy consumption and associated emissions will not alter from their current levels as a result of this proposal. If anything, there will be a reduction in emissions as SEND Lead Workers and other professionals will not have to travel as far to see children and young people, and any travel will be inside the county of Wiltshire.

Workforce Implications

68. These proposals relate to a service that will be delivered through external suppliers, so, there is little-to-no direct impact on council employed staff.

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

69. If the contract is not put in place, more children will continue to be placed outside the county of Wiltshire, and further from their families and communities.
70. There is also a risk that the average weekly, and overall cost of independent specialist education provision will rise more significantly, as placements will be sourced through more expensive framework contracts, or on a spot purchase basis.

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

71. There is a risk that a suitable provider is not identified through the tender process to operate the contract, in which case the Council will review the contract proposals, arrange further market engagement, and offer a new contract to the market in a timely way.
72. Another risk is related to the speed of mobilisation of the education spaces, which will be managed through engagement with the commissioning team and the provider. The benefit of supplying property to the successful provider means that they will be able to mobilise much faster as they will not need to purchase property initially.
73. If the number of children who require a place reduces the Council will be left with void placements. The annual contract review will ensure that the number of commissioned places remain appropriate to the demand, and regular contract management and communication with the provider and with operational teams will reduce this risk.

Financial Implications

74. Costs for independent special school places account for 23% of High Needs education costs, but only 6% of children. Reducing our reliance on this type of provision will reduce costs.
75. As part of the contract, there will be a price review mechanism which will be reviewed to ensure continued best value throughout the lifetime of the contract.
76. In conjunction with the ability to request a fee increase, there is also the expectation that providers will be delivering social value in the community to benefit the children and families of Wiltshire. The amount of social value delivered each year will also form part of the decision-making process when considering any request for a fee increase, as this an expectation on the Provider, and does have a financial impact.

Legal Implications

77. Legal Services has been instructed to advise on this matter and prepare the new contract. Legal advice will continue to be sought until the conclusion of the project.

78. The proposals will be implemented using a Council template contract which has been tailored to protect the interests of the Council as well as remain commercial so not to put off the market.

79. The procurement will be undertaken in accordance with Constitutional and Legal requirements under the Public Contracts Regulations 2015.

Conclusions

80. To meet the growing demand for Primary SEMH provision and specialist support for secondary aged learners, support the reduction in expenditure on high-cost Independent Special School placements and ensure that children and young people receive high quality education in county.

81. This report recommends Cabinet agree the following proposals:

- 1) Approve the award a 5 plus 5 year contract to an external education provider, to provide 45 places for primary age children and 15-25 places for secondary age young people with EHCPs and Social, Emotional & Mental Health (SEMH) needs in Wiltshire for Wiltshire children and young people. This will include an annual review of the contract.
- 2) Note that the contract award will follow officers completing the tender programme, award, and implementation of a new contract for the provision of OFSTED registered education by 31 March 2024, with a clear mobilisation period to support opening in September 2024.
- 3) To delegate authority to approve and award a new contract and future extensions and all associated documents to the Corporate Director, People, in consultation with the Deputy Leader and Cabinet Member for Children's Services, Education and Skills.

Helean Hughes and Richard Hanks, Directors - Education and Skills

Report Author: Kai Muxlow, Head of Commissioning – Families and Children,
Email: kai.muxlow@wiltshire.gov.uk
Telephone: 01225 718501

30 October 2023