

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Cabinet Member for Children and Education

Date: 30 August 2022

Subject: Alternative Provision and Behaviour and Reintegration Outreach Support

Report author: Joe Gunning, Programme Lead, Children's Commissioning

Responsible Director: Jacqui McShannon, Strategic Director of Children's Services

SUMMARY

This paper seeks approval to provide transitional funding to Ormiston Academy Trust (OAT) for the delivery of Alternative Provision (AP) in Hammersmith and Fulham (H&F) to enable the trust sufficient time to make the required efficiencies to deliver services within the financial envelope.

It also seeks approval for the direct award of a one-year contract to OAT for the provision of Behaviour and Reintegration Outreach Support services to support the avoidance of permanent exclusions.

RECOMMENDATIONS

The Cabinet Member for Children and Education approves:

1. Transitional funding of £282,544 to Ormiston Academy Trust for the delivery of Alternative Provision in H&F.
 2. The revised top-up rate for Alternative Provision of £14,521 with spend up to £769,613 for the academic year 01/09/2022-31/08/2023.
 3. The revised top-up rate for EHC provision of £24,521 with spend up to £269,731 for the academic year 01/09/2022-31/08/2023.
 4. The direct award of a one-year contract from the 01/09/2022-31/08/2023 to Ormiston Academy Trust for the provision of a Behaviour and Reintegration Support Outreach Service at a total cost of £310,000.
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Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	Local provider and employer will have improved financial certainty as it moves to a new business model.

Creating a compassionate council	Pupils have a strong educational offer that also helps meet additional needs.
Doing things with local residents, not to them	Pupils have a strong educational offer that also helps meet additional needs.
Being ruthlessly financially efficient	Contributes to stabilising and significantly reducing the HNB overspend.
Taking pride in H&F	Quality provision and outreach provision to support children reaching their full potential in mainstream schools. Children should feel that they are in a safe and nurturing environment. As a result, they can take pride in their schools and in their Borough.
Rising to the challenge of the climate and ecological emergency	Schools are a key partner for supporting H&F's climate agenda alongside partner organisations; building on their knowledge to design a robust climate curriculum for all settings in H&F.

Financial Impact

As detailed in the main section of the report, a full open-book review was undertaken with OAT in negotiating the proposed top-up values. The impact of this for the two academic years are shown in Tables 1 and 2.

[Table 1: 2021/22 Academic Year – final costs](#)

Summary of costs					
Provision	2021/22 Academic Year Proposed Places	Top-up per place/pupil	Total Top-up funding	Place funding	Total funding
The Bridge – AP	67	£12,021	£805,407	£670,000	£1,475,407
Courtyard – AP	10	£12,021	£96,168	£100,000	£220,210
The Bridge – Special Educational Needs (SEN)	5	£19,659	£98,295	£50,000	£148,295
Courtyard – SEN	6	£19,659	£117,954	£60,000	£177,954
Outreach provision	N/A	N/A	£310,000	0	£310,000
Courtyard	N/A	N/A	£167,000	0	£167,000
Total	88	-	£1,594,824	£880,000	£2,498,866
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Spend reduction		-	£245,480	£240,000	£485,480

[Table 2: 2022/23 Academic Year – final costs](#)

Summary of costs					
Provision	2022/23 Academic Year	Top-up per place/pupil	Total Top-up funding	Place funding	Total funding

	Proposed Places				
The Bridge – AP	45	£14,521	£653,445	£450,000	£1,103,445
Courtyard – AP	8	£14,521	£116,168	£80,000	£196,168
The Bridge – SEN	5	£24,521	£122,605	£50,000	£172,605
Courtyard – SEN	6	£24,521	£147,126	£60,000	£207,126
Outreach provision	N/A	N/A	£310,000	0	£310,000
Total	64	-	£1,349,344	£640,000	£1,989,344

It is recognised that the reduction in the number of commissioned AP places for the AY 2022/23 requires an increase in the AP and SEN top-up values to reflect the cost of delivering AP provision by OAT.

A detailed costing exercise has been undertaken to recognise this while still enabling Hammersmith and Fulham to meet its savings targets set out in the Department for Education (DfE) Safety Valve plan.

The proposed top-up values of £14,521 for AP and £10,000 for SEN enabled H&F to meet the Safety Valve savings targets set. The transitional funding has been mitigated via a Schools Block to High Needs Block transfer in 2022/23 and Central School's Services Block (CSSB) transfer.

Completed by Caroline Baxter, Finance Manager, caroline.baxter@lbhf.gov.uk, 22/07/2022

Verified by Tony Burton, Head of Finance Children's Services and Education, tony.burton@lbhf.gov.uk, 22/07/2022

Legal Implications

Alternative Provision and Education Health and Care (EHC) provision

The Council has a statutory duty to ensure that there is an adequate supply of good quality Alternative Provision under section 19 of the Education Act 1996, as amended by section 3A of the Children, Schools and Families Act 2010.

The Council also has duties under the Children and Families Act 2014 to make special educational provision for children and young people whose needs cannot reasonably be met from the resources normally available to schools and post-16 institutions.

The transitional funding and revised top-up with spend outlined in the report therefore contributes to the fulfilment by the Council of its obligation under section 19 of the Education Act 1996 and the Children and Families Act 2014.

Implications by: Jade Monroe, Chief Solicitor (Social Care) 15th July 2022

Direct Award of Contract for Behaviour and Reintegration Support Outreach Services

This report recommends the approval of a direct award to Ormiston Academy Trust for £300,000 for a Behaviour and Reintegration Support Outreach Service to start from 1st September 2022. The contract is a High Value Contract and therefore subject to competition requirements under the Council's Contract Standing Orders unless a waiver to CSO 19.1 has been granted.

The contract is also subject to the Public Contracts Regulations 2015. However, as a light touch contract (i.e., for primary and secondary education) it falls below the threshold above which a contract must be procured under the PCRs.

As the contract has a value of £300,000, the decision to award the contract is a Key Decision under Article 12 of the Constitution. This report must be submitted to Committee Services for publication on the Council's website.

The contract must be sealed by Legal Services as it has a value of over £100,000. The appropriate decision maker for the recommendations overall is the Cabinet Member.

Implications by: Angela Hogan, Chief Solicitor (Contracts and Procurement) 13th July 2022

Background Papers Used in Preparing This Report

None

DETAILED ANALYSIS

Proposals and Analysis of Options

A) Alternative Provision

1. Local Authorities have a duty to ensure there is sufficient provision locally for children and young people with special educational needs. This includes ensuring there is suitable provision and sufficient numbers and types of specialist placements to meet local need and that placement processes are effective.
2. A decision paper was approved by the Cabinet Member for Children and Education on the 11 November 2021 confirming the intended place commissioning numbers at Ormiston Academy Trust. These commissioning intentions were subsequently submitted to the Department for Education in the November 2021 place return.
3. Negotiations have been ongoing with OAT to agree a revised top-up rate to reflect the decrease in place commissioned numbers in line with forecasted demand.

Provision	2022/23 Academic Year Proposed Places	Place Funding (per place)	Top-up Funding (per place)
The Bridge (Secondary) – AP	45	£10,000	£14,521

Courtyard (Primary) – AP	8	£10,000	£14,521
The Bridge (Secondary) – EHC	5	£10,000	£24,521
Courtyard (Primary) – EHC	6	£10,000	£24,521

4. During these negotiations and following an open-book review of the current cost base, we recognised that given the reduced place commissioning numbers and proposed revised top-up, this would result in £411,000 deficit position for OAT in 2022/23 academic year. We therefore recognise the need to allow for sufficient lead in time for the Trust to make the required establishment changes to deliver within the reduced financial envelope.
5. We are therefore recommending providing transitional funding of £411,000, net our High Needs Block saving commitments of £128,456 by 31/03/2023. This will result in transitional funding for the 2022/23 academic year as follows:
 - £239,750 (2022/23 Financial Year)
 - £42,794 (2023/24 Financial Year)
6. This will require OAT to deliver the following savings in order to reach a balanced budget:
 - £128,456 by March 2023
 - The remaining £282,544 (full year effect of £411,000) before the start of the new academic year 2023/24.
7. The transitional funding will be provided on the agreement that the Trust will deliver efficiencies to deliver a balanced budget by 2023/24 academic year on the proposed commissioning intentions.
8. It is proposed that the transition funding is released on a quarterly basis with equal payments of the £239,750 in Autumn and Spring subject to satisfactory delivery against agreed milestones and £42,794 in the summer term.

Option 1: Agree to the transition funding proposals (Recommended)

9. The Local Authority has a statutory duty to commission suitable alternative provision places. This option will ensure the continued delivery of this provision, delivery of the agreed savings, whilst allowing the provider sufficient time to deliver the efficiencies.

Option 2: Do not agree to the transition funding proposals (Not recommended)

10. The Local Authority would be in breach of its statutory duties resulting in significant gaps in provision and challenge. Alternative placements would need to be sought for children and young people within the independent sector causing significant disruption to children and young people. This would be at a far higher cost which would result in a further pressure to the High Needs Block and non-delivery of the agreed Safety Valve savings target.

B) Behaviour and Reintegration outreach support

11. Outreach support is a key targeted intervention to support the reduction in children being permanently excluded. OAT have historically provided a Behaviour Outreach service provision to schools within the borough as part of the commissioning arrangements via the Local Authority.
12. Preventing exclusions is important for a plethora of reasons but mostly it is a key factor in improving future life chances for children. The 2018 literature review found that exclusion not only leads to isolation and poor academic progress in the short term, but also that it can have far reaching detrimental effects for the excluded pupil, such as a significantly higher likelihood of becoming a teenage parent, being unemployed or homeless later in life, or ending up in prison. Building on the previous findings about isolation, the review found that exclusion has a negative effect on pupils' aspirations and self-belief. This can result in increased marginalisation and disassociation with society in general, as those punished with exclusion can begin shunning opportunities and conventional social systems such as education. This marginalisation is often associated with increasing offending and increased likelihood of being involved with the criminal justice system, both as victims and offenders.

Option 1: Agree to the 1-year direct award to OAT for the provision of a Behaviour and Reintegration Outreach Support service (Recommended)

13. As experienced practitioners in the management of behaviour and reintegration support, it is recommended that a one-year contract in parallel with the Alternative Provision place commissioning arrangements is awarded to OAT for the 2022/23 academic year.
14. The delivery of an Outreach Service for Behaviour and Reintegration Support to both primary and secondary Mainstream schools includes both a whole school approach and strategies for effective management of behaviour as well as supporting individual pupils who are at risk of exclusion and who may have social, emotional, and mental health difficulties.

Option 2: Do not agree to the 1-year direct award to OAT for the provision of a Behaviour and Reintegration Outreach Support service (Not recommended)

15. The delivery of outreach provision would cease. As a consequence, exclusions may rise which would have a detrimental effect on vulnerable children and young people as well as having a direct impact on schools in the borough.

Reasons for Decision

16. The Council has a statutory responsibility to ensure that there is an adequate supply of good quality Alternative Provision (AP) as per Section 19 of the Education Act 1996, as amended by section 3A of the Children, Schools and Families Act 2010; and that all children and young people of compulsory school age have access to a school or a form of Alternative Provision.
17. There is no suitable or appropriate alternative or substitute in the borough that could deliver this service. Whilst the Council do commission a small number of alternative provision places from Westside school for vulnerable students; overall

spaces are limited, and this provision would not have the capacity to deliver the requirements of the full AP service in H&F. OAT is an established and experienced local provider of AP with a vast amount of local knowledge.

18. By not approving the transition funding to OAT there is significant risk of provider failure which would result in the Council needing to spot purchase from the independent sector or out of borough provision in order to meet its statutory responsibility to ensure that there is an adequate supply of good quality Alternative Provision.
19. Out of borough provision may not have the capacity to offer AP to all H&F learners as most places are commissioned by the host borough for their vulnerable resident children and there would be limited space for the H&F cohort.
20. Out of Borough provision would not provide outreach services to our learners and this will have a direct impact on all schools in the borough and may lead to an increase in permanent exclusions.
21. Retaining the service governed by the new Service Level Agreement will allow H&F to achieve the agreed savings targets. It is also intended from 2023/24 that this service will move to a traded model, whereby schools would purchase this provision directly from OAT using their core funding. This one-year contract provides the continuity in provision whilst the Local Authority and schools transition to the new operating model.

Equality Implications

22. There are no anticipated negative implications for groups with protected characteristics, under the Equality Act 2010, by the approval of recommended options as vulnerable children and young people will continue to be supported.
23. The new SLA aims to ensure a more comprehensive set of management information will be available to scrutinise exclusion and re-integration rates across groups with protected characteristics.

Risk Management Implications

24. There is a high risk of supplier failure should the OAT H&F provision become financially unviable and close. This proposal seeks to mitigate the risk that pupils with additional needs do not receive the support which they require and is in line with the objective of creating a compassionate council. Further implications of not agreeing the award include having to negotiate with other AP providers outside of boroughs. This has contextual safeguarding implications, transportation cost implications and monitoring/QA implications.
25. Officers are recommending that transitional funding be released on a quarterly basis, subject to satisfactory delivery against key milestones. This is in line with the objective of being ruthlessly financially efficient.

David Hughes, Director of Audit, Fraud, Risk and Insurance, 18 July 2022

Climate and Ecological Emergency Implications

26. This decision does not have significant climate and ecological implications. The main expected greenhouse gas emissions sources associated with this provision are in the energy use on-site, and the use of transport for outreach. These are not linked to this contract, as the premises are leased independently of the contract, and transport use is linked to the council's separate minibuss contract.
27. Schools are a key partner for supporting H&F's climate agenda alongside partner organisations; continuing to raise awareness and understanding of the climate and ecological emergency, and the steps that people can take. The H&F Education Service and Climate Emergency Unit will shortly begin work to co-produce a H&F schools decarbonisation plan with our school community.

Jim Cunningham, Climate Policy & Strategy lead, 20th July 2022

Social Value Implications

28. It is a requirement that all contracts let by the council with a value above £100,000 provide social value commitments that are additional to the core services required under the contract. In addition, the evaluation of social value should account for a weighting of a minimum of 10% of the overall score.
29. Social value only applies to the contract award in recommendation 4 above of a Behaviour and Reintegration Support Outreach Service amounting to £310,000. Social value does not apply to recommendations 1 to 3 if they are not goods or services being procured.
30. Officers have confirmed that they have met with the contractors and confirmed their commitment to deliver a minimum of 15.29% Social Value in line with the Social Value list of outcomes and measures ("TOMS") and Social Value Policy requirement. Officers will work with the contractors ahead of the contract start date to agree the delivery plan. The highest-value measure is the employment of local residents.
31. Performance will be monitored via regular contract monitoring activity and Key Performance Indicators. It is recommended that the supplier works with the council's Social Value Officer to help design and deliver the delivery plan. It is also recommended that commissioners will work with legal to include relevant social value clauses for non-delivery.

Implications by: Paul Clarke, Economic Development Officer, 26 July 2022

Consultation

32. There is ongoing consultation with headteachers as part of the Headteachers forums established via the Learning Partnership and formal Schools Forum. OAT will continue to work with schools during the contract to shape provision to meet the totality of need.

LIST OF APPENDICES

None