

CABINET

11 JULY 2023

GATEWAY 3 CONTRACT AWARD: MEDWAY ALTERNATIVE PROVISION FOR EDUCATION

Portfolio Holder: Councillor Adam Price, Portfolio Holder for Children's Services (including statutory responsibilities)

Report from: Lee-Anne Farach, Director of People

Author: Celia Buxton, Assistant Director, Education & SEND
Emma Block, Partnership Commissioning Programme Lead (Education and Inclusion)

Procurement Overview

Total Contract Value: £2,497,795

Contract Term: 2-year with 2yr + 1yr extensions
(24months+24months+12months)

SUMMARY

This report seeks permission to award the procurement of the Medway's Alternative Provision (AP) for Education Contracts. This Gateway 3 has not been approved at Procurement Board due to the timeliness of implementation in order to have an alternative provision in place by September, bypassing Procurement Board was agreed at the Gateway 1 stage.

1. Background Information

1.1. Budget & Policy Framework

1.1.1. Under the Education Act (section 19), the Local Authority has a statutory duty to make arrangements for the provision of suitable education for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education.

1.1.2. Education arranged by local authorities for pupils for the above reasons is called Alternative Provision (AP).

1.1.3. In March 2018, the Department of Education (DfE) issued policy guidance which set out the Government's vision for Alternative Provision and outlined its reforms to raise standards and improve

outcomes for all children in AP. The roadmap which the Government sets out in the guidance aims to ensure:

- That the right children are placed in AP
- Every child in AP receives a good education
- Every child can make a successful transition out of AP
- AP becomes, and is recognised as, an integral part of the education system
- The system is designed to achieve high quality outcomes for children and value for money for the taxpayer

1.1.4. In March 2022, the DfE consulted on proposals for a national, integrated Special Educational Needs and Disabilities (SEND) and AP system. Alternative Provision should be focused on children's needs. Their purpose is to support children whose behaviour or other needs present a barrier to learning. The green paper proposed these barriers were addressed by:

- Creating a national vision for alternative provision, which enables local areas to ensure that children and young people with challenging behaviour or with health needs get the support they need through, for example: targeted support in mainstream settings; access to alternative provision schools; reintegration from alternative provision to mainstream
- Having plans for all alternative provision schools to join a multi-academy trust

1.1.5. In March 2023, the DfE set out their response on how they are going to change the special educational needs and disabilities (SEND) and alternative provision system in England, this includes:

- A national system underpinned by national standards
- Successful transitions and preparation for adulthood
- A skilled workforce and excellent leadership
- Strengthened accountabilities and clear routes of redress
- A financially sustainable system delivering improved outcomes

1.1.6. The DfE paper (2023) sets out proposals to move to an integrated SEND and alternative provision system:

'Alternative provision is an important aspect of our reforms and will be used as an intervention, not a destination. High-quality alternative provision, including for social, emotional and mental health needs, will create additional capacity for mainstream school leaders and staff to address challenging behaviour earlier and re-engage pupils in education.'

1.1.7. The Local Authorities Dedicated Schools Grant (DSG) allocation is calculated in four separate funding blocks (Schools, Early Years, High Needs and the Central Service Schools Block) using national funding formulas. The High Needs Block (HNB) is the funding mechanism

through which the Local Authority provides provision to meet the statutory duties set out above.

1.1.8. Medway Council is committed to ensuring that all children and young people have access to high quality education, and that additional needs, such as SEND needs or medical conditions, should not cause a barrier to accessing provision or resources.

1.2. Background Information and Procurement Deliverables

1.2.1. The DfE paper (2023) for the integration of SEND and AP proposes *'Interventions will be based on a three-tier model with a focus on targeted support whilst children are in mainstream school, to deal with needs early and reduce preventable exclusion. Time-limited or transitional placements into an alternative provision setting will provide more intensive intervention or longer-term support where it is needed, before these young people return to a new mainstream setting or progress to a sustainable post-16 destination.'*

1.2.2. Three-tier model for alternative provision (DfE, 2023)

A three-tier model for alternative provision

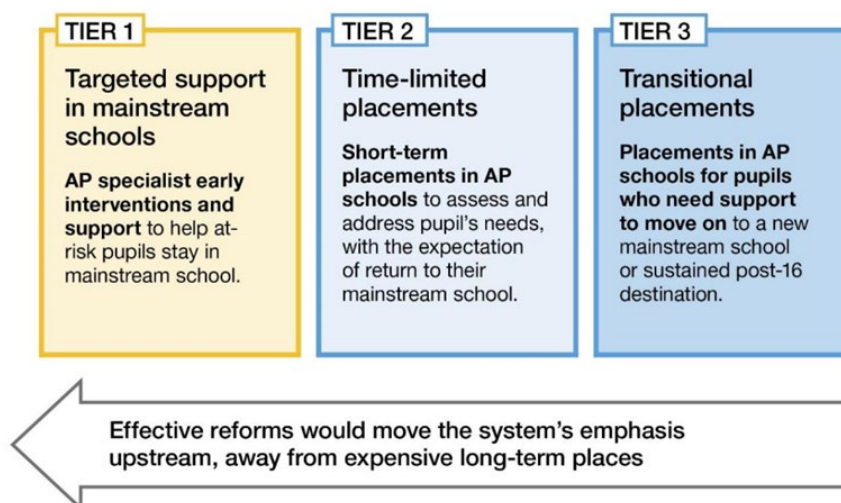


Figure 2: A three-tier model for alternative provision

The Local Authority has worked closely with schools about potential changes to the offer of support, AP and SEND. A draft consultation paper was shared to gather education leader's views on the identified needs and resulting future developments, which showed agreement for the 4 identified proposed commissioned services. A fuller consultation on the new system arrangements was held between 17th April to 5th May 2023 and a full update is to be circulated to education leaders shortly by the Assistant Director for SEND and Education.

1.2.3. The new proposals support the local system leadership sharing collective responsibility for all children. Strengthening school resources to continually develop the right skills and knowledge to meet the needs

of children and young people presenting challenging behaviours and those with SEND.

1.2.4. The commissioned services will support:

- The development of specialist knowledge and skills in mainstream schools to support pupils with SEND.
- Pupils presenting with challenging behaviour, that can be supported in their mainstream school with some outreach.
- The reintegration of pupils out of school due to a health need.
- Assessment placements for a small number of children arriving in Medway through Fair Access Protocol where there is evidence of very challenging behaviour.

1.2.5. Current alternative provision arrangements did not have contracts with their respective providers and therefore a procurement process was required to pull a robust commissioning framework around these services allowing their impact to be monitored more closely.

1.2.6. The tender was broken into four separate lots:

Lot	Output	Capacity
1	Training providers to develop expertise across education staff in one or more key identified areas: <ol style="list-style-type: none"> 1. Communication and interaction - Speech, language, and communication needs (SLCN), ASD (Autism Spectrum Disorder) 2. Cognition and learning (moderate learning difficulties, profound and multiple learning difficulties, severe learning difficulties; specific learning difficulties and dyslexia / dysgraphia / dyscalculia / dyspraxia. 3. Social, emotional, and mental health (SEMH) 4. Sensory, and/or physical needs (visual impairment, multi-sensory impairment, and physical disability) Including peer to peer learning opportunities.	For all schools
2	Provision of outreach support for pupils presenting with challenging behaviours	For key stages 1,2 and 3
3	Provider delivery of outreach and reintegration education services to support pupils absent with health-related needs (e.g., school avoidance / anxiety) to reintegrate back into education settings.	30 placements available across all key stages
4	Provision of assessments to identify young people's needs who are displaying challenging behaviours	For key stages 3 and 4

1.2.7. There was a considerable amount of urgency to the procurement of these contracts, as notice has been provided to some of the current

outreach services and AP school provision. Successful procurement was required to ensure there is service provision available as soon as possible.

1.3. Parent Company Guarantee/Performance Bond Required

1.3.1. Procurement Board at Gateway 1 stage approved that the parent company guarantee was waived due to the educational services providers not being able to provide one.

2. Procurement Process

2.1. Procurement Process Undertaken

2.1.1. The Council conducted an open procedure via the Kent Business Portal, in line with the Public Contracts Regulations 2015, and in support of the Council's procurement strategy to provide best value.

Stage / Activity	Indicative Date
Procurement Board – Gateway 1 paper	19 th April 2023
ITT documents issued	5 th May 2023
Closing date for ITT submissions of tenders	Midday 5 th June 2023
Evaluation of tenders	6 th June 2023
Presentations / interviews	9 th , 12 th , 13 th , 15 th June 2023
Cabinet – Gateway 3 paper	11 th July 2023
Contract award / contracts	July / August 2023
Contract start date	4 th September 2023

2.2. Evaluation Criteria Used

2.2.1. Officers evaluated bids against the following quality criteria within the tender. All tenders were asked to explain fully how they intend to deliver the project within the constraints and budget.

2.2.2. 80% quality / 20% price award criteria split will be used to highlight the need for effective services to be implemented to demonstrate educational impact.

#	Question	Weighting (%)	Purpose
	Please describe your background and level of experience within the field of Alternative Provision / Training provider for SEND or similar field of practice and how you will implement those principles against the specification.	10%	To evaluate the likelihood of their success in delivering alternative provision for education access and the level of expertise available.
	Please provide details of how you will fulfil the requirements of the	15%	To evaluate the likelihood of their

<p>specification in the following areas:</p> <ul style="list-style-type: none"> • Service delivery. • Successful mobilisation, including recruitment. • Seamless transition period. 		<p>success in providing the LA, education providers and pupils with evidence of effectiveness.</p>
<p>Please describe your approach to developing a robust and outcome-based framework to evaluate impact of practice.</p>	<p>10%</p>	<p>To evaluate the likelihood of demonstrating clear impact</p>
<p>Please detail how you will ensure co-production and feedback is converted into service improvements?</p>	<p>15%</p>	<p>To evaluate the experience and expertise in co-production and stakeholder engagement to ensure provision is child and young person centred, and part of a sustainable system delivering improved outcomes.</p>
<p>Value for money: Provide in the form of a Gant chart illustrating key dates for delivery achievable within the budget. If possible, please identify any time savings which will lead to the overall reduction of the programme.</p>	<p>15%</p>	<p>To evaluate their relative expertise and experience in the above criteria against their proposed costs, to demonstrate value for money</p>
<p>Presentation: Please present your proposed tender with delivery timescales, including a response to the below question:</p> <p>The DfE single SEND and alternative provision system is based on 5 core values:</p> <ol style="list-style-type: none"> 1. Nationally consistent 2. Evidence-driven 3. Responsive 4. Co-produced; and 5. Inclusive. <p>How will you ensure that your service is aligned with these 5 core values, and proactively meets the local needs in Medway?</p>	<p>15%</p>	<p>Meet key staff, review service provision and mobilisation planning. Review understanding of national vision in relation to Medway.</p>

- 2.2.3. Where a provider did not score above 2 in the technical questions or answer booklet, their application would have been scored against scoring principle “Limited information provided, or a response that is inadequate or partially addresses the question” and was not progressed to the next stage of procurement.
- 2.2.4. The top bidders were asked to present their proposals to an expert panel with representatives from Senior Education Leadership Teams (schools), Education and SEND Division, Public Health and Partnership Commissioning.

#	Criteria	Scoring (1-4)
	Presentation	1-4
1	How will you build relationships with wider stakeholders?	1-4
2*	What do you consider the critical success factors to delivering this project?	1-4
	What do you consider the potential barriers to delivering this project?	1-4
3	How will you ensure that your service evaluations are rooted in a robust evidence base, and how will you use these to identify trends, anticipate potential barriers, and forward plan to strengthen service delivery?	1-4
4	How will you build long term sustainability into the project?	1-4

*Changed if provider was interviewing for multiple lots to remove of any unfair advantage.

2.3. Contract Management

- 2.3.1. Contract management will be the responsibility of the Partnership Commissioning Programme Lead for Education and Inclusion.

3. Service Implications

3.1. Financial Implications

- 3.1.1. The procurement requirement and its associated delivery as per the recommendations will be funded from existing revenue budgets. Funded from ring-fenced inclusion funding as part of the High Needs Block Deficit Recovery Plan, under the Safety Valve Intervention Programme

- 3.1.2. As at 31 March 2022, the Council was £24.710m in deficit on its DSG reserve mainly arising from the overspend on the high needs block (HNB) of the DSG. The Council submitted a deficit recovery plan to recover the accumulative DSG deficit and to bring the in-year overspend back into balance resulting in an overall surplus position balance by March 2026 under the government Safety Valve programme.

3.1.3. Every year we spend c£5.150m on the alternative provision of education including outreach and therapy support which includes but is not limited to the newly procured services in this report. To this end the services are within the cash envelope for providing AP school provision of £5.150m and is in line with our deficit recovery plan. The proposed AP school provision plan aims to provide more support for pre-emptive and reintegration activity reducing less EHCPs.

3.2. Legal Implications

3.2.1. The Council has statutory duties under the Children & Families Act 2014 and the Care Act 2014 to provide for children and young people with special educational needs and disabilities. The LA's High Needs Deficit Recovery Plan and SVIP (under which this project sits) focuses on five overarching priorities and related activities which together address changes to the whole system. The scope of the activities sits within the framework of the legislative duty to ensure efficient use of public resources.

3.3. TUPE Implications

3.3.1. There are no TUPE implications for this project.

3.4. Procurement Implications

3.4.1. As per the Contract Procedure Rules under section 3.3.1: 'All requirements above the relevant threshold must be advertised on the Kent Business Portal and in the FTS (where above the public tender thresholds for goods, services or works).'

3.4.2. The procurement was carried out via an open procedure via the Kent Business Portal and with an associated FTS notice to comply with these rules, to adhere to the updated Public Procurement Regulations 2015, and to support the Council's procurement strategy to provide best value.

3.5. ICT Implications - N/A

4. Risk Management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Lack of engagement from schools, limiting the overall impact and reach of the contracts	The delivery of the contract is reliant on the engagement and participation of schools across Medway.	<p>The tendering of these specifications have been evaluated with representatives from schools and academies, with questions specifically focused on establishing a providers' ability to work with schools and encourage buy-in.</p> <p>A significant amount of communication and discussion has taken place with schools, through various forums and the AP consultation.</p>	C2
Recruitment and resource availability	The delivery of provision is reliant on expansion of teams and staff numbers.	Provisions were asked to present their mobilisation plans within the presentations and demonstrate how they will be available from Sept to accept referrals or support schools. Mobilisation planning will focus on these developments.	C3
Capacity of services to meet needs and effectiveness of supporting remaining or returning to mainstream school.	<p>Capacity of services to meet needs of children and young people is reliant on staffing and resources being available and growing over time as services develop.</p> <p>Effectiveness will impact on whether we are able to see numbers of children and young people remaining in their mainstream schools with support.</p>	All services are focusing on outreach, reintegration and upskilling school staff. Service growth plans will form part of monitoring process and a shared framework will support our understanding of their wider impact.	C3

Likelihood	Impact:
A Very high B High C Significant D Low E Very low F Almost impossible	1 Catastrophic (Showstopper) 2 Critical 3 Marginal 4 Negligible

5. Social, Economic & Environmental Considerations

- 5.1. The broad area Social Values the procurement included are:
 - Social: Healthier, Safer and more Resilient Communities.
 - Jobs: Promote local skills and Employment
- 5.2. The nature of early intervention in alternative provision is to provide a more holistic and child-centred focus to interactions, support and direct practice with children and young people. By embedding this across Medway schools, this is expected to have a positive impact on children and young people in terms of their experience and engagement with school.
- 5.3. No economic or environmental considerations have been identified.

6. Recommendation(s)

- 6.1. The Cabinet is recommended to award contracts for Lots 1, 2 and 4 to the bidders identified in 3.2 of the Exempt Appendix as they have been evaluated as the most economically advantageous tender within their respective Lot(s) against the Council's award criteria as per the evaluation spreadsheet appended to the Exempt Appendix
- 6.2. The Cabinet is recommended to not award contracts for Lot 3 as the bidders failed the quality submission and are therefore not eligible for award and instead agree the progression of a negotiated procedure without prior publication, in accordance with Regulation 32 of the Public Contract Regulations 2015 and as detailed within 3.3 of the Exempt Appendix.

7. Suggested reasons for decision(s)

- 7.1. Award of the contract will ensure the local authority meets its statutory duty to make arrangements for the provision of suitable education for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education.

Service Lead Officer Contact

Celia Buxton, Assistant Director, Education and SEND

Tel: (01634) 331013

Email: celia.buxton@medway.gov.uk

Appendices

Exempt Appendix – financial analysis

Background Papers

None