

PURPOSE: Final Decision Report

KEY OR NON-KEY DECISION: Key decision over £500k

COMMITTEE: Children and Young People Committee

DATE: 29 August 2024

TITLE: Independent Non-Maintained Special School Framework, contract extension

Ward(s): City Wide

Officer presenting the report: Gail Rogers **Job title:** Head of Childrens Commissioning

Committee Chair: Cllr Townsend

Executive Director lead: Hannah Woodhouse: Executive Director for Childrens and Education

Proposal origin: BCC Staff

Purpose of Report:

1. To seek approval to invoke the two, one year extension clauses in the South West and South Central Independent Non-Maintained Special School framework contract. The initial term of the contract expires in December 2024 and the contract includes the option to extend for up to two years.

Evidence Base / Options to consider:

1. Some children and young people have complex special education needs and/or disabilities that cannot be met within mainstream or maintained special schools. These children will need a highly specialised education placement, in independent or non-local authority maintained special schools (INMSS). INMSS settings have the resources, expertise, and experience to meet the complex needs of children and young people and offer high quality education. The settings are independent organisations that operate as either a charities or for-profit businesses. Schools can offer both day and residential placements.
2. As of April 2024, 223 children and young people are in day placements in an INMSS; the average cost of a day placement is £73,000 per year. There are 38 children and young people are in a residential placement and the average cost of a residential placement is £284,000.
3. To comply with procurement regulations, Bristol City Council must have a contract to purchase these placements from. For placement services, the Council looks to work with other local authorities across the South West and beyond to develop joint contracting arrangements. Commissioning as a larger consortium of authorities with a larger market share will allow us to meaningfully engage with and manage the market, whilst enabling us to achieve efficiencies in the purchasing and development of services.
4. Bristol City Council is signed up to the Wiltshire led framework contract to purchase Independent Non-Maintained special school placements. The framework is a collaboration of 10 local authorities

across the South West and South Central regions. In order to join the framework, settings must be registered with Ofsted and meet minimum quality standards, including safeguarding. Where there are concerns about providers or they are rated inadequate by Ofsted, a coordinated approach is undertaken by local authorities on the framework.

5. The framework ensures value for money as providers are required to submit prices at the point of tender, there is then an annual uplift mechanism whereby providers must evidence why this increase is required.
6. Framework contracts are standard practice across the council for contracting providers. Multiple providers can join the framework and multiple local authorities can purchase services from them. Under a framework agreement there is no commitment to spend. The value of a framework agreement relates to the maximum that can be spent on that contract, rather than a guarantee of spending. Having a framework contract to use also ensure that we are purchasing compliantly in accordance with the procurement regulations. It also ensures that the providers we use have been through quality assurance and due diligence processes.
7. The contract started in January 2020 and the initial term expires in December 2024. The contract allows for an extension for a further two years (1+1) to December 2026. We must give providers 3 months' notice if we want to extend or not. The annual contract value for Bristol is a £5,759,000 up to a maximum of £28,795,000 over 5 years. A two-year extension will increase the maximum value by £11,518,000 (£5,759,000 per year).
8. Bristol City Council's actual spend-to-date on the contract is £9,972,903.35. This is because as of April 2024 only 7.5% of our placements are on the contract and providers are under no obligation to join a framework, although market engagement is undertaken to try and improve uptake. The remaining are spot placements i.e. they are not under framework terms and conditions.
9. In financial year 23/24 our actual annual spend on these services was £21,693,300. The INMSS budget is significantly overspent and the Council has a 6-year plan to reduce reliance on the independent sector, as part of the Dedicated Schools Grant deficit management plan.
10. The original key decision to sign up to framework was taken in December 2018. A new key decision is required to invoke the extension clauses. Without extending the contract we will have no contractual arrangements in place from January 2025. This will increase the dependency on off framework contracting, which could lead to increased risk in the Council breaching of procurement regulations and value for money benchmarking.
11. Over the next two years officers will work with stakeholders including other local authorities, schools and families to develop a new contract, that will be in place for January 2027.
12. For the avoidance of doubt, existing placements in INM provision will not be affected by the extension. Placements with providers who are no on the framework will not be effected.
13. A range of projects are being undertaken to increase local sufficiency within mainstream and maintained schools to reduce our reliance on INM placements for those children and young people whose needs could be better met in other provision, which is a key element of our Safety Valve programme.

Officer Recommendations:

That the Committee for Children and Young People

1. Authorises the Executive Director of Children and Education in consultation with the Chair of the Children and Young People Committee to extend the Pseudo Dynamic Purchasing System for the Provision of CS0877 South West & South Central Flexible Framework for Independent/non-maintained special schools for up to 2 years in-line with the procurement routes and maximum budget envelopes outlined in this report.

Corporate Strategy alignment:

1. Equity in education- Invoking the extension will enable commissioners to continue to work closely with our regional partners to purchase placements.

City Benefits:

1. Meet educational needs of children, young people and families in line with the SEND code of Practice, the Children and Families Act and the Equalities Act.
2. Support the Council to achieve value for money through transparent pricing.
3. Continue to develop partnership working between LAs and education providers to meet the changing needs of our children/ young people with SEND.

Consultation Details:

1. Consultation has taken with place with other local authorities and internal stakeholders. A public consultation is not required.

Background Documents:

1. Children’s and Families Act 2014 <http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>
2. SEND Code of Practice 2015 (Stat Guidance) <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>
3. Equalities Act <https://www.legislation.gov.uk/ukpga/2010/15/contents>

Revenue Cost	£ 11,518,000	Source of Revenue Funding	Inclusion Service – High Needs Block Cost centres: 13281 13280 14504
Capital Cost	£na	Source of Capital Funding	n/a
One off cost <input type="checkbox"/> Ongoing cost <input checked="" type="checkbox"/>		Saving Proposal <input type="checkbox"/> If yes - existing or new saving? Choose an item. OR Income generation proposal <input type="checkbox"/>	

1. Finance Advice: This report is concerning the framework contract extension, and not the use of INMS per se. Procurement of INMS placements via the framework ensures Procurement compliance and provides a greater degree of confidence and potentially greater value for money than off-framework spot purchasing, and so where there is still need to purchase INMS places this framework extension will provide greater assurance. However, the use of INMS is extremely costly and is largely driven by complexity of need and lack of suitable local provision, and reduction in use of INMS is a key mitigation in the Safety Value programme to recover the Dedicated Schools Grant deficit. In the longer term there needs to be a substantial reduction in need for INMS placements to meet the programme aims.

Finance Business Partner: Travis Young, Finance Business Partner, 08/07/24

2. Legal Advice: The extension is provided for in the framework contract. Legal Services will advise and assist in relation to the contractual arrangements for the extension.

Legal Team Leader: Husinara Jones, Team Manager/Solicitor 27 June 2024

3. Implications on IT: I can see no implications on IT regarding this activity

IT Team Leader: Alex Simpson, Lead Enterprise Architect, 27/06/2024

4. HR Advice: The report is seeking approval to invoke the two, one year extension clauses in the South West and South Central Independent Non-Maintained Special School framework contract. There are no significant HR implications arising from this report in respect of Bristol City Council employees.

HR Partner: Lorna Laing, HR Business Partner 28/06/2024

APPENDICES

Appendix A – Further essential background / detail on the proposal **NO**

Use this section to provide more details to expand upon the points made in this report.

Appendix B – Equality Impact Assessment (EqIA) **YES**

contact equalities.team@bristol.gov.uk for support. See [Equality Impact Assessments](#)

Appendix C – Environmental Impact Assessment (Environmental Impact Assessment) **YES**

NOTE: Non-key decision do not need an EIA. See [Environmental Impact Assessments \(EIA\) \(sharepoint.com\)](#), Contact environmental.performance@bristol.gov.uk for support.

Appendix D – [Decision Risk Assessment](#) if required **NO**

Appendix E – Exempt Information (Legal Services must confirm and approve that information is to be exempt in accordance with the constitution contact Husinara Jones) **NO**

Appendix F – Details of consultation carried out - internal and external **NO**

Appendix G – Options appraisal matrix **NO**

Appendix H – Business case / financial analysis **NO**