

## DYNAMIC PURCHASING SYSTEM – CHILDREN AND YOUNG PEOPLE

To consider options for commissioning day and residential placements at Independent and Non-maintained Special Schools and Colleges for Children and Young People with additional needs for the period 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2026

<b>Cabinet Date</b>	13 <sup>th</sup> March 2019
<b>Children &amp; Young People</b>	Cllr Richard Boyles
<b>Key Decision</b>	Yes
<b>Background Documents</b>	<p>West Sussex County Council's Partnership Agreement for Purchasing Children's Placements and Other Support Services</p> <p><a href="#">2017 decision to consider options for procuring care and education placements.</a></p> <p><a href="#">2018 decision to extend partnership agreement with West Sussex to continue procuring care and education placements.</a></p>
<b>Location/Contact for inspection of Background Documents</b>	Background papers are available by contacting Forrest Wilhoite, SEND Development Manager, <a href="mailto:forrest.wilhoite@gloucestershire.gov.uk">forrest.wilhoite@gloucestershire.gov.uk</a>
<b>Main Consultees</b>	Internal Stakeholders West Sussex County Council South West Regional Local Authorities
<b>Planned Dates</b>	If the recommendation is approved, the proposed Dynamic Purchasing System (DPS) shall continue for an initial period of 3 years commencing 1 <sup>st</sup> April 2019 and include an option to extend such term by a further period of not more than 4 years (expiring no later than 31 <sup>st</sup> March 2026).
<b>Divisional Councillor</b>	All
<b>Officer</b>	Clare Medland, Head of Commissioning for Learning Email: <a href="mailto:clare.medland@gloucestershire.gov.uk">clare.medland@gloucestershire.gov.uk</a> Tel: 01452 328686

<p><b>Purpose of Report</b></p>	<p>To agree the future arrangements for the commissioning of day and residential placements at Independent and Non-maintained Special Schools and Independent Specialist Colleges for Children and Young People with Additional Needs.</p>
<p><b>Recommendations</b></p>	<p>That the Cabinet Member for Children and Young People:</p> <ol style="list-style-type: none"> <li>1. Authorises the Director of Education to execute a Partnership Agreement with West Sussex County Council (WSSCC) under which Gloucestershire County Council shall be entitled to join WSSCC's Dynamic Purchasing System (DPS) for Children's Placements and Other Support Services (CPOSS) for the purpose of commissioning day and residential education placements for children and young people (0-25) with additional needs. The proposed Partnership Agreement shall continue for an initial period of 3 years commencing 1<sup>st</sup> April 2019 and include an option to extend such term by a further period of not more than 4 years (expiring no later than 31<sup>st</sup> March 2026);</li> <li>2. Authorises the Head of Services for Children with Additional Needs: <ol style="list-style-type: none"> <li>(a) to utilise the West Sussex County Council CPOSS DPS in order to commission and award contracts thereunder for the delivery of day and residential education placements for Children and Young People (0-25) with additional needs as offering the Council best value for money for delivery of the services in accordance with the DPS requirements the period described in paragraph 1.</li> <li>(b) to report back to Cabinet at the end of each 12 month period throughout the period described in paragraph 1 above in order to provide details of the aggregate value of contracts awarded using the West Sussex County Council CPOSS DPS in that period and cumulatively together with authority to enter into higher value individual contracts over £500K to be awarded within the subsequent 12 month period.</li> </ol> </li> </ol>
<p><b>Reasons for recommendations</b></p>	<p>The existing contract in respect of the commissioning and supply of residential and day placements at Independent and Non-maintained Special Schools and Independent Specialist Colleges for Children and Young People with Additional Needs shall expire 31<sup>st</sup> March 2019.</p> <p>The proposed new West Sussex County Council CPOSS DPS has been developed with West Sussex County Council, Bath and North East Somerset Council, Brighton and Hove City Council, Bristol City Council, Portsmouth City Council, South Gloucestershire Council and Wiltshire County Council. This will ensure access to a wide range of appropriate and cost effective specialist placements for children and young people with additional needs.</p>

	<p>The Council must have a robust, transparent and legally compliant procurement process in place to commission day and residential education placements at independent or non-maintained schools and colleges for children and young people up to the age of 25.</p>
<p><b>Resource Implications</b></p>	<ul style="list-style-type: none"> <li>• The proposed partnership agreement West Sussex County Council will have no intrinsic value in its own right but will provide the mechanism for commissioning placements for Children and Young People using the West Sussex County Council CPOSS DPS.</li> <li>• The cost of commissioning such placements will be met from existing council resources through the Dedicated Schools Grant (DSG), Social Care agency budget and the NHS.</li> <li>• The total spend on commissioning such placements in 2019/20 is anticipated to be approximately £17.1m based on current spend and projections. Over the initial 3 year term the anticipated total spend, is forecast to be £56m. If the contract term is extended by 4 years, the anticipated total spend is forecast to be in the region of £100m.</li> </ul>

## **MAIN REPORT CONTENTS**

### **Introduction**

1. Gloucestershire provides a wide range of high quality mainstream and specialist provision for children and young people with additional needs, including those with special educational needs. This provision is designed to meet the spectrum of needs and is regularly reviewed to ensure that it continues to reflect the levels of demand within the county.
2. However, a small but significant number of children and young people with additional needs, including those with Education, Health and Care Plans (EHCP) have more complex needs and sometimes require placements in independent/non-maintained special schools (ISS/NMSS) and colleges where their needs can be more appropriately met.
3. In December 2018 there were 247 Children and Young People placed in ISS/NMSS and care provisions. These placements were either made through the statutory process of naming provision within the child's or young person's Education Health and Care Plan (EHCP) or were jointly commissioned with Social Care and Health through the Children and Young People's Exceptional Residential Needs Panel (CYPERN). The cost to the council of placements for the 2018/19 financial year is forecast to be £9.65m funded by the DSG, £6.7m from the social care agency budget, and £0.4m contributed from Health budgets.

### **Background**

4. In February 2017 The Lead Cabinet Member for Children and Young People approved the Council's participation in a new procurement process led by West Sussex County Council to establish a new DPS for the purposes of awarding specific contracts thereunder for service user placements at Independent Special Schools/Non-maintained Special Schools. The DPS has now been established and shall continue for an initial period of 3 years commencing 1<sup>st</sup> April 2019 and include an option to extend such term by a further period of not more than 4 years (expiring no later than 31<sup>st</sup> March 2026).
5. ISS/NMSS and independent specialist colleges are regulated and funded differently to our own schools. The council must therefore have a robust and transparent procurement process in place for effective commissioning and monitoring of day and residential educational placements at settings.
6. The council is currently participating in the soon to expire West Sussex Special Educational and Disabilities DPS (Dynamic Purchasing System) along with other South West participating Local Authorities (Bristol City Council, South Gloucestershire Council, North Somerset Council, Bath & North East Somerset Council and Wiltshire Council). Each local authority is responsible for commissioning its own placement requirements through the DPS. Such arrangements will expire on 31<sup>st</sup> March 2019.
7. The council is committed to commissioning the majority of placements through the proposed new West Sussex County Council CPOSS DPS. Whilst the council's aim is to use the said DPS to fully meet its placement requirements, spot purchasing will still be necessary on occasions where highly specialist provision is required outside the scope of the DPS – especially for independent colleges who are not part of the current DPS.

## Options

**A. Delegate authority to the Director of Education to enter into a Partnership Agreement with West Sussex County Council to join their Dynamic Purchasing System (DPS) for Children's Placements and Other Support Services (CPOSS) for the commissioning of day and residential education placements for children and young people (0-25) with additional needs for the period 1 April 2019 – 31 March 2026 (with an initial term of 3 years and an option to extend up to a further 4 years)**

- i. The DPS is a legally compliant, open electronic purchasing system, which has more flexibility than a framework in that new provider's can join at regular intervals to refresh the market and maintain value for money. It also encourages market development because of its transparent nature which gives all providers the intelligence they need to develop services in line with identified need and demand across the region.
- ii. A DPS includes a pre-qualified list of accredited service providers to whom local authority purchasers may award contracts for services. However under the DPS the council must carry out a formal competition process between all of the pre-qualified service providers on each occasion that it wishes to award a contract for specific services. This market competition encourages better value for money.
- iii. In order for Gloucestershire and other local authorities to use the West Sussex DPS, West Sussex County Council require these local authorities to enter into a partnership agreement with West Sussex Council which sets out the contractual relationship between Gloucestershire and West Sussex County Council. The Agreement states that each partner local authority will enter into their own Service Contracts for individual placements with the selected provider and that the Agreement is not a contract for the supply of goods and services.
- iv. More detailed information on the West Sussex model is available at Appendix 1.
- v. In supporting this option there will be to authorise the Head of Services for Children with Additional Needs:
  - (c) to utilise the West Sussex County Council CPOSS DPS in order to commission and award contracts thereunder for the delivery of day and residential education placements for Children and Young People (0-25) with additional needs during the period described in paragraph 1.
  - (d) to report back to Cabinet at the end of each 12 month period throughout the period described in paragraph 1 above in order to provide details of the aggregate value of contracts awarded using the West Sussex County Council CPOSS DPS in that period and cumulatively.

**B. For Gloucestershire to undertake a tendering process independently of the West Sussex County Council model**

- i. Gloucestershire County Council has previously led on the implementation of a South West framework and there are already other commissioning frameworks in

place within the council, so this option would be possible. However, in addition to the intensive resource which would be required to set up a stand-alone solution, it would also limit the council's purchasing power and potential economies of scale afforded by the flexibility and size of a multi-council DPS led by West Sussex.

### **Resource implications**

8. The West Sussex DPS agreement will have no intrinsic value in its own right but will provide the mechanism for commissioning day and residential placements in independent Special Schools, Non-Maintained Special Schools and independent Specialist Providers (including Colleges) for children and young people with additional needs. The proposed DPS will enable the council to reduce the number of spot purchases it makes, leading to more robust, transparent processes. It will also increase the purchasing power of the partner authorities and lead to greater economies of scale.
9. The cost to the council of placements for the 2018/19 financial year is forecast to be £9.65m funded by the DSG, £6.7m from the social care agency budget, and £0.4m contributed from Health budgets.
10. Based on current numbers, the forecast spend for the 3 year period 2019/20 to 2021/22 is £56m. Total spend during the same period is subject to change dependant on placement numbers and need.
  - i. The forecast spend on high needs placements for 2019/20 is approximately £10.1m (Education) + £7.0m (Social Care) and £0.5 contributed from Health budgets.
  - ii. The forecast spend on high needs placements for 2020/21 is approximately £10.9m (Education) + £7.4m (Social Care) and £0.51 contributed from Health budgets.
  - iii. The forecast spend on high needs placements for 2021/22 is approximately £11.7m (Education) + £7.6m (Social Care) and £0.52 contributed from Health budgets.
11. If the contract term is extended by a further 4 years, the anticipated total spend is forecast to be in the region of £100m.
12. The costs of these placements will be met within existing council resources through the Dedicated Schools Grant (DSG), Social Care agency budget and Health. Should the council consider setting up its own framework, costs associated with this are likely to exceed £50k (to include resource from Children's Services, the Commercial Unit and Legal Services). A solely localised option will reduce the purchasing power of the Local Authority and a loss through economy of scale.

### **Risk Assessment**

13. There are two main risks associated with the recommendations in this report:

- i. Key providers fail to join the new DPS.

#### Mitigation

Regional and local market engagement will be arranged for current and new providers within the arena.

- ii. There is a challenge to the council's procurement method.

Mitigation

The proposed DPS has been procured under the "light touch regime" prescribed under Chapter 3, Section 7 of the Public Contracts Regulations 2015, hence it would be more accurate to describe it as a "pseudo DPS". A pseudo DPS offers a recognised, transparent and public procurement law compliant procurement process. It is an open list method of procuring services hence it will provide opportunities for new providers to join the list during the lifetime of the DPS. By consequence thereof, the DPS will reduce the need to award placements 'off-contract' and this will in itself reduce the risk of legal challenge to the proposed process.

**Officer Advice**

- 14. Officers recommend that the Cabinet Member adopts Option A, and enters into a Partnership Agreement with West Sussex County Council to join their Dynamic Purchasing System (DPS) for Children's Placements and Other Support Services (CPOSS) for the commissioning of day and residential education placements for children and young people (0-25) with additional needs for the period 1 April 2019 – 31 March 2026.
- 15. The CPOSS DPS offers outcomes-based commissioning that focuses on the long term changes that services and activities achieve. It differs from conventional commissioning which has tended to focus on outputs rather than outcomes. The benefits of outcomes-based commissioning include: shifting the focus of public resources from particular activities and outputs towards the outcomes that matter most for children and their families; and creating more scope for providers to innovate to achieve outcomes by reducing the level of prescription in service specifications.
- 16. In coming to this recommendation, officers have taken into account the need to ensure that placements provide good value for money and are provided based on a robust assessment of individual needs.
- 17. Other local authorities currently operating within the South West Region are also planning to join the new West Sussex DPS. Gloucestershire will continue to benefit from access to a wide range of providers and maintain South West sub-regional links. No additional resources from the council are required to implement this recommended option – which will provide efficiencies and reduce the cost of placements.
- 18. The alternative localised option provides less flexibility in actual provision and it would require significant investment by the council to design, implement and manage a stand-alone framework and to complete its own checks on providers to ensure continued quality.

**Equalities considerations**

- 19. A Due Regard statement has been produced. The proposal does not discriminate against any of the protected groups and actively seeks to improve outcomes for children and young people with additional needs by ensuring that they are able to have access to education and social care provision which meets their individual needs.

20. Cabinet Members should read and consider the Due Regard Statement in order to satisfy themselves as decision makers that due regard has been given.

### **Consultation feedback**

21. In collaboration with the Education Health and Care Plan (EHCP) Manager, commissioners are able to confirm that Gloucestershire's involvement in the development of the CPOSS DPS ensured that the purchasing system is robust and will meet the needs of our Children and Young People, whilst still offering the flexibility to accommodate future demands.

### **Performance Management/Follow-up**

22. West Sussex County Council will lead on the ongoing maintenance of the DPS.

23. Monitoring of the quality of provision by pre-approved providers will be co-ordinated with partner councils to the DPS agreement to make the most effective use of resources and other performance management will include:

- Having a clearly defined monitoring framework against which providers will continue to be monitored.
- Placement contracts including specific and measurable standards and outcomes so they can be actively managed through regular monitoring meetings with providers.
- Monitoring will include feedback from young people, parents/carers, commissioning officers and social workers through individual review processes.
- Monitoring will include feedback from any complaints received about the service or standard of care provided.

A report will be provided on an annual basis to Cabinet throughout the period of the contract in order to provide details of the aggregate value of contracts awarded using the DPS in that period and cumulatively. In addition, individual decisions will be sought for those contracts which are above the key decision threshold either through forward planning as part of the annual report or through a separate decision.



<b>Report Title</b>	Approval to participate in and commission services under a Dynamic Purchasing System (DPS) for the commissioning of day and residential placements at Independent and Non-maintained Special Schools (Including Colleges) for Children and Young People with additional needs
<b>Statutory Authority</b>	Gloucestershire County Council
<b>Relevant County Council policy</b>	Looking To The Future
<b>Resource Implications</b>	<ul style="list-style-type: none"> <li>• The proposed partnership agreement West Sussex County Council will have no intrinsic value in its own right but will provide the mechanism for commissioning placements for Children and Young People using the West Sussex County Council CPOSS DPS.</li> <li>• The cost of commissioning such placements will be met from existing council resources through the Dedicated Schools Grant (DSG), Social Care agency budget and the NHS.</li> <li>• The total spend on commissioning such placements in 2019/20 is anticipated to be approximately £17.1m based on current spend and projections. Over the initial 3 year term the anticipated total spend, is forecast to be £56m. If the contract term is extended by 4 years, the anticipated total spend is forecast to be in the region of £100m.</li> </ul>
<b>Sustainability checklist:</b>  Partnerships  Decision Making and Involvement  Economy and Employment  Caring for people  Social Value  Built Environment	Working in partnership with internal and external professionals will help to provide more tailored support for children and young people with additional needs.  The Cabinet Member for Children and Young People will decide whether to approve the recommended option.  Potential for improved outcomes for children and young people with additional needs to increase their adult employment opportunities  Working in partnership with other providers will help to provide more tailored support for children and young people with additional needs  Potential for improved outcomes for children and young people leading to increased positive involvement in local communities.  No Impact

Natural Environment' including Ecology (Biodiversity)	No Impact
Education and Information	This will provide the opportunity to improve the education and care outcomes for children and young people with SEND
<b>Tackling Climate Change</b>	Carbon Emissions Implications? Neutral Vulnerable to climate change? No
<b>Due Regard Statement</b>	Has a Due Regard Statement been completed? Yes - considerations included in main body of report  A copy of the full Due Regard Statement can be accessed on GLOSTEXT via <a href="http://glostext.gloucestershire.gov.uk/uuCoverPage.aspx?bcr=1">http://glostext.gloucestershire.gov.uk/uuCoverPage.aspx?bcr=1</a>  Alternatively a hard copy is available for inspection from Jo Moore, Democratic Services Unit, e-mail: <a href="mailto:jo.moore@gloucestershire.gov.uk">jo.moore@gloucestershire.gov.uk</a> .
<b>Human rights Implications</b>	None
<b>Consultation Arrangements</b>	None

## Appendix 1; The West Sussex DPS

West Sussex County Council's current DPS has been operating for over 5 years and ends on 31 March 2019. The LA has seen the benefits of being able to shape the market – providers are able to diversify and amend their offer in response to need. The new DPS has built upon previous learning and engagement from key stakeholders to become more outcome focussed.

- West Sussex's system for sourcing individual placements from the DPS uses secure email to send each anonymised case along with the relevant part of the EHCP to providers this would remain the same with Gloucestershire County Council making its own individual placements from the DPS list. West Sussex would take responsibility for collecting all the tender submissions and will share the information with other Local Authorities.
- It is a mandatory requirement for all schools and colleges to complete a fee breakdown template and quality assurance documents to be a recognised provider.
- Where parents express a preference on a particular school that is not on the DPS, brokerage will put the placement out to the DPS as well as consulting with the parents' preferred school. Parents are then able to see the choice available to them.
- The DfE want to explore the possibility of scaling up the DPS regionally, innovation funding was provided to facilitate this. So far, this has involved developing a Common Outcomes Framework that West Sussex has built into the contract.
- West Sussex has also included Independent Post 16 provision (ISP) within the DPS.