

To: THE EXECUTIVE
Date: 16th July 2024

Procurement of an Academy Trust for SEMH school provision Warfield
Executive Director: People

1. Purpose of Report

- 1.1. To set out the strategic procurement approach to reviewing and recommending an Academy Trust to oversee the day-to-day management of a new free Social Emotional and Mental Health (SEMH) school within the Borough. The construction of the school itself is part of a separate capital programme and has followed the procurement processes specific to it.

2. Recommendation(s)

- 2.1. That the Executive approves this Strategic Procurement Plan to review and recommend an academy trust, with the Department of Education (DFE), to run the SEMH (Social Emotional Mental Health) school on the All-Saints Warfield site. The recommendation will then be considered by the Secretary of State for them to enter into a funding agreement with the recommended trust.
- 2.2. That the Executive delegate authority to the Executive Director: People and the Executive Member for Children, Young People and Learning for the contract award decision.

3. Reasons for Recommendation(s)

- 3.1. Academies are state-funded schools that are independent of local authority control and receive their funding directly from the government. Schools established through the presumption process are not required to use the term 'free school' in their name: this follows practice within the DFE's free school programme.
- 3.2. It is a requirement of the contract standing orders, that the Executive approve any strategic procurement plan with a value more than £1m.
The SEMH School will provide 50 places of which 41 are expected to be used by pupil's resident in BF and for which the council will be financially responsible. The cost to the council is therefore estimated at £10k for the core cost of each place commissioned, plus another circa £34k "top up" payment for each BF pupil on roll, at an estimated annual cost of £1.8m and circa £7.2m over 4 years if at full capacity.
This decision seeks approval for the procurement process as the cost per student per year would be over the threshold. The contract value is based on a four-year period, but the contract period is indefinite.

4. Alternative Options Considered

- 4.1. Framework agreements - We are not aware of any DfE (or other) frameworks to appoint a trust. There are likely to be a limited number of trusts who meet the specifications and are able to bid for this tender, so using a framework agreement, (if there was one), would have less benefit.
- 4.2. The presumption process is the main route by which local authorities bring about the establishment of new schools to meet the need for additional places.

5. Supporting Information

5.1. Financial Analysis

5.2. One off funding costs:

The local authority will provide a post-opening grant funding of £500 for each new pupil.
 50 places x £500 = £25,000
 Plus £170,000 SEN Management grant
 Total = £195,000.

5.3. Ongoing annual funding costs:

The SEMH School will provide 50 places of which 41 are expected to be used by pupil's resident in BF and for which the council will be financially responsible. The cost to the council is therefore estimated at £10k for the core cost of each place commissioned, plus another circa £34k "top up" payment for each BF pupil on roll, at an estimated annual cost of £1.8m and circa £7.2m over 4 years if at full capacity.

Other LAs will be able to make placements at the new provision and will be responsible for meeting the relevant cost. Other LA numbers are estimated to be in a similar proportion to pupils currently placed in Kennel Lane Special School
 Uptake of provision is likely to be slower in first 4 years.

5.4. Bracknell Forest Council set the number of commissioned places and request admissions. For each admission BFC will then pay a top up amount. DfE receive the money from BFC to pay the trust/provider direct for the number of commissioned places.

5.5. The contract value for the purposes of procurement of a trust has been based on a four-year period, but the contract period for the provision of the new school is indefinite.

5.6. Timescales

Coproducing specification – engaging with key groups to get their input into the specification	
Advertisement for consultation	May 1 st – May 8 th
Consultation activity	May 10 th – 22 nd
Criteria draft	May 10 th – 22 nd May
Finalising documents (spec, criteria, EQIA and application)	22 nd May – 29 th May
Strategic Procurement Plan	
Plan drafted	28 th May
Internal review (finance/legal comments)	28 th May – 4 th June
DMT	11 th June (paper deadline 4 th June)
CMT	19 th June (paper deadline 13 th)
Exec	16 th July
Call in period deadline	21 st July (5 calendar days)
Out to tender	
Launch of competition	22 nd July
Deadline for submission of applications by proposer groups, 8 weeks after the launch of the competition. The council will assess all proposer group applications, with input from the department.	13 th September
Closing date	13 th September

Evaluation and awarding	
Shortlisting of applications received (if necessary). These applications will then be forwarded to the DfE. Invitation of shortlisted applicants to interview.	16-20 September 2024
Interviews start for groups with the strongest applications. Groups will be invited to present their case and answer questions from a panel of Bracknell Forest Council and DfE representatives.	21-25 October 2024
Council scoring finalised and report written to support recommendation of successful trust.	28 October -1 November 2024
The council will make recommendations to DfE, who will make a final decision on which application to approve. Proposals will be against the model criteria for the DfE Free School Presumption process.	4 November 2024
Secretary State makes final decision. Successful applications will be announced, and the project will enter the pre-opening stage.	Week commencing 16 December 2024
Trust to establish school with support of LA and RG delivery officer from DfE. Temporary accommodation planned to open in September 2025 for a number of places ahead of the new school opening in September 2026.	September 2025

6. Procurement process and methods

- 6.1. The procurement process will be an Open procedure.
See further detail within Appendix 4 – Strategic Procurement Plan.

7. Advertising

- 7.1. The local authority will market the presumption competition as widely as possible to ensure that the broadest possible range of trusts that might be interested in establishing the new school are aware of the opportunity to do so and have sufficient time to develop proposals. This will ensure a fair and open competition and the best pool of prospective trusts. These will include:
- Southeast Business Procurement Portal (SEBP) – where the tender documents will be published, and submissions received.
 - Promoting through any local authority newsletter or bulletin which is regularly sent to education providers in their area.
 - Identifying and contacting trusts and good or outstanding schools in the local authority area or region which may be interested in applying.
 - Advertising in the local and national press
 - Holding a public meeting for prospective trusts and local stakeholders to find out

more (i.e., A trust engagement and information event)

The DFE will also play a role in generating interest from a range of high-quality proposers – by posting details of new free school proposals on the GOV.UK website, encouraging key stakeholders to do the same and by sign-posting proposals to trusts. The DFE will also inform The Schools, Student and Teachers Network (SSAT) and the Confederation of School Trusts (CST), to alert potential proposers to the need for a new school. Note – as stated above, the tender documents will be published, and submissions received on the SEBP. All other means of advertisement will provide a link to the SEBP for interested providers to access all the relevant information and upload their tender responses.

7.2. Length of advertisement

The proposed length between publication of the specification and the deadline for submission of the proposal is 8 weeks, between 22nd July 2024 and 13th September 2024.

8. Tender Evaluation

- 8.1. These tenders will be scored 100% quality. The specification will clearly set out the requirements and the proposers will be asked to set out how the proposal will be likely to lead to improvements in the standard, quality, and range of educational provision for children with special educational needs.
- 8.2. The proposers will have to consider and evidence within their application that the amount of funding per child is viable to them. The funding agreed has been included within specifications. This will be evaluated on a pass/fail question. They will be excluded if financial funding is not viable to them.
- 8.3. The assessment of proposals will be based on the criteria as set out in the published specification and a clear and transparent process will be followed.

9. Interview/Assessment Process

- 9.1. A representative from Regions Group in the DFE will participate in the assessment panel to support the local authority to appoint an appropriate trust.
- 9.2. The proposers will be invited to interview to present their case and answer clarification questions to provide further detail. The council will invite a DFE official to be part of the assessment panel. The DFE official will take part in the interview panel and provide any relevant and up-to-date information the DFE holds on the trust to help the local authority identify the best and most appropriate proposal.
- 9.3. In addition, the Regions Group delivery officer will be able to provide the local authority with relevant evidence about the trust in line with the approach set out in Commissioning high-quality trusts, i.e. whether the trust applying to set up a new presumption free school is in a position to grow, and that its strengths are well matched to the type of school it is looking to open, or that it has a credible plan to get there.
- 9.4. The council will invite representatives from the local community to join the assessment panel (e.g., Parent Carer Forum).

9.5. Timescales

As detailed above.

9.6. Financial Analysis

As detailed above.

9.7. Contract Award

The award of contract will be approved via a report to the Executive Director of People and the Executive.

This will be a Key decision.

10. Consultation and Other Considerations

Legal Advice

10.1. Shown in Appendix 4 – Strategic Procurement Plan

Financial Advice

10.2. Shown in Appendix 4 – Strategic Procurement Plan

Procurement Advice

10.3. Shown in Appendix 4 – Strategic Procurement Plan

Other Consultation Responses

10.4. **Coproducing specification – engaging with key groups to get their input into the specification.** We will need to update this section with summary consultation responses as we go through the process but before CMT/Executive.

11. Equalities

11.1. Equalities Impact Assessment

Shown in Appendix 3 - EQIA

12. Strategic Risk Management Issues

Issue	Risk	Comment
Programme Risk - There is no Trust currently appointed to run the new SEMH school. The Trust won't be appointed in time to be involved in the design stage for the new school. The school will need to be designed without input from the trust that will be running the school. Potential for the design to not match the needs of the provider.	Medium	Building to be designed on basis of curriculum rather than the cohort of CYP. Input to be secured from specialist providers and/or DfE.
Programme Risk – decision making process.	Medium	

Any delay in the decision process will impact on the timeline for delivery.		
Financial risk - Other LAs admit a high proportion of pupils which will adversely affect the HNB medium term deficit	Low	
Financial risk - Top up funding level is higher than assumed by the council and impacts on the HNB deficit	Medium	
Procurement Risk – No trusts tender	Low	

13. Procurement Risks and Mitigation Options

13.1. Financial

Is assessed as MEDIUM, as the trust has not yet been tendered. In particular, the identification of the Trust to operate the All Saints site is happening in tandem with the build and design process, and this means the successful Trust will not be able to input to the site design, and should they require design changes this may lead to unanticipated changes which could impact cost. However, the mitigation for this is that we have a highly experienced team (who have worked on DfE school build projects previously) who are engaging with subject matter experts, including best practice from existing provision, to ensure that the design of the provision meets need.

13.2. Timescale

Is currently MEDIUM. The procurement process timescales have been carefully reviewed and agreed with DfE representatives. However, should any of the procurement milestones be missed, the overall delivery and implementation of the trust to run the new provision would be delayed and this in turn would impact the council's ability to deliver the new provision for the borough by the required deadline. There are 2 timescales in the process which pose risks at present. Firstly, the application period (8 weeks from 22nd July 2024 – 13th September 2024). This risk is that we do not receive enough suitable applications to proceed to the interview stage. The mitigations in place for this risk is that during the pre-engagement phase (as part of the DfE presumption process guidelines), we are asking providers to comment if the length of time to submit a tender is suitable. Furthermore, we have scheduled time with the DfE to determine if they need to advertise more or reach out to their contacts to ensure we do get applications within this time-period. The second timeline which has risk of slippage is waiting for the DfE to approve our recommendation following the interview process. The DfE have internal boards where the decision must be considered. To mitigate this, we are communicating with DfE at this early stage to ensure it will be put on their agendas as soon as possible to prevent any slippages due to governance timelines.

14. Background Papers

None

Contact for further information.

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