



# Northumberland County Council

## CABINET

14<sup>TH</sup> FEBRUARY 2023

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### **Alternative Provision to Support Children Permanently Excluded from School**

Report of: Cllr. Renner Thompson, Cabinet Member for Children and Young People  
Audrey Kingham and Graham Reiter, Interim Directors of Children's Services

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#### **Purpose of Report**

To seek permission from Cabinet to undertake a tender process to support the provision of Alternative Education for children of statutory school age. The request is necessary due to the approaching expiry of an existing tender and a likely change in emphasis by the Department for Education in respect of regulation which may have an impact upon levels of expenditure.

The intention is to create a Dynamic Purchasing System (DPS) which will allow the Council to contract with a variety of pre-qualified suppliers, supporting access to a range of placements across the County for eligible young people. Unlike a framework arrangement, a DPS allows suppliers to join at pre-agreed points of time, encouraging competition and making it easier for local suppliers to access the arrangement. This will support the Council in meeting its duties during a time of change and increased demand.

During summer 2022 the DfE launched a call for evidence into understanding the use of unregistered alternative provision across England. This was announced as one of the commitments published in the SEND and Alternative Provision green paper which committed to strengthening protections for children in unregistered alternative provision. At the same time the impact of COVID is now starting to show within Northumberland resulting in a rise in both permanent exclusions and fixed term exclusions/suspensions.

A DPS will create a more flexible solution providing the Council with improved access to suppliers in order to meet need. It will be for an initial period 10 years with actual expenditure levels fluctuating in line with demand.

#### **Recommendations**

Cabinet is recommended:

1. To note the information presented in this report which includes the proposal to create a Dynamic Purchasing System to support access to Alternative Provision. This will support the Council in fulfilling its statutory duty to ensure that full time schooling is provided from the 6<sup>th</sup> school day.
2. To approve a tender exercise which will ensure that appropriate contractual arrangements are in place by the 1st of September 2023.
3. To note that whilst the value of this contract is approx. £1,500,000 per annum which suggests £15,000,000 over a 10-year period, expenditure levels are driven by fluctuating demand and will vary year on year.

### **Link to Corporate Plan**

The procurement of these services will contribute across most of the Council's Corporate Plan Priorities but particularly to "living and learning". The procurement of Alternative Provision supports the Council's commitment to ensuring the best education standards for our children and young people.

### **Key Issues**

1. Due to the approach of an expiring contract there is a need to undertake a tender exercise in order to create an arrangement to access Alternative Provision with effect from the 1st of September 2023. As a result of the anticipated levels of expenditure approval from Cabinet is needed to proceed with the tender process.
2. This is a statutory service which is demand led meaning that the Council must provide full time schooling for permanently excluded pupils from the 6th school day.
3. The approach is aligned to the delivery of the Northumberland Strategic Inclusion Plan 2022-2026 which is seeking to establish:
  - A clear moral purpose that makes exclusions the responsibility of everyone in Northumberland;
  - Financial realism through a shared understanding of the High Needs Block funding;
  - A robust core purpose, supported by agreed regulation and fair processes;
  - Urgent and driving actions to create a coherent core offer of support that schools subscribe to and drive down exclusions and encourage inclusive practice.
4. The creation of a DPS does not in itself commit the Council to expenditure. Instead, it establishes a mechanism to refer young people into services with organisations paid for what they deliver with no guaranteed level of income. It follows that actual expenditure varies year on year depending upon actual levels of permanent exclusion.

## **Background**

The Council is responsible for providing full time, suitable education for every permanently excluded pupil within six days of their exclusion. Students are placed either into the Pupil Referral Unit or into quality-assured alternative education providers. Northumberland has recently changed the age range of its Pupil Referral Unit which now includes KS4 pupils, however there isn't enough capacity or would it be appropriate to have all excluded pupils accommodated in a single provision. Northumberland does not have Alternative Provision (AP) Free School and therefore relies on Alternative Providers to educate pupils excluded across the age range.

There is a need to undertake a tender exercise to ensure that robust contractual arrangements are in place following the expiry of the existing contract. In order to join Northumberland's alternative provision DPS, providers will go through a rigorous tendering and procurement exercise and be visited annually by the Head of School Improvement at the Council.

The framework will cover the provision of both registered and unregistered providers allowing flexibility as the intentions of the SEND and Alternative Provision Green Paper become clearer.

Alternative Provision must:

- Focus on developing literacy and numeracy or mathematics and English.
- Provide mentoring support to re-engage pupils back into school and build emotional and social resilience.
- Provide age-appropriate learning and where necessary one to one support.
- Operate in line with school term dates and have high expectations of behaviour and discipline
- Provide vocational opportunities as appropriate for students aged 14 and over.
- Provide frequent opportunities for spiritual, moral, social and cultural development.
- Provide students with strategies to try and address their behaviour/motivation and cope with the demands of mainstream school or college
- Establish appropriately high standards and expectations with students to support reintegration to school e.g., attendance, punctuality, behaviour, dress code, respect for adults, use of language.
- Have the ability to assess individual support needs and refer students for specialist support

The aim is to ensure that all pupils receive a good education regardless of their circumstances and the setting in which they find themselves. It is essential that Alternative Provision supports young people to fulfil their ambitions and prepares them for the best possible transition to adulthood. It follows that there is a particular emphasis on ensuring that young people are supported to be aspirational and focussed upon opportunities to engage with their chosen career.

## **Permanent Exclusions**

The impact of COVID is now starting to show within Northumberland resulting in a rise in both permanent exclusions and fixed term exclusions/suspensions. A new trend is starting to emerge with a specific increase for pupils in years 7 and 8. We believe this is due to the

time missed in years 5 and 6 in primary schools and the challenge with implementation of transitional arrangements to prepare these year groups for secondary school.

The trend in PEX can be summarised as follows:

	Permanent Exclusions				Fixed Term Exclusions		
	Total	EHCP	SEN Support	Pupil Population	Total	EHCP	SEN Support
<b>2014/15</b>	44	4	16	39,597	1,599	143	355
<b>2015/16</b>	41	0	26	39,602	1,270	221	704
<b>2016/17</b>	75	3	39	39,422	1,967	133	767
<b>2017/18</b>	115	6	53	39,598	4,514	291	1,347
<b>2018/19</b>	83	4	23	39,684	3,490	180	769
<b>2019/20</b>	50	0	12	39,795	1,696	112	391
<b>2020/21</b>	44	0	11	40,070	2,144	172	642
<b>2021/22</b>	94	1	56	40,059	4,027	372	1,100

Whilst it remains a challenge both nationally and locally to reduce PEX and improve the life changes of some of our most vulnerable children and young people, the Northumberland Strategic Inclusion Strategy provides a multi-agency approach to support children, young people, their families and schools to ensure every child and young person has access to the most suitable education setting to meet their needs and are supported in order that they achieve their potential. This includes access to Alternative Provision which the creation of the DPS will support.

### **Financial Position**

The Council is statutorily committed to providing full time education for permanently excluded pupils and is therefore responsible for all associated placements and transport costs.

The budget is funded from the high needs block of the Dedicated Schools Grant with the 22/23 allocation remaining at £1,500,000.

As a result of the drive towards registered provision contained within the SEND and Alternative Provision Green Paper the costs associated with delivering AP will rise. This is linked to the cost of teachers' salaries, meeting the capital requirements of the Ofsted framework and the more general cost of living pressures.

## **Implications**

<b>Policy</b>	The procedures adopted by the Council for permanently excluded pupils fulfil its statutory duty under the Education Act 1996 section 19(3A) and (3B)
<b>Finance and value for money</b>	The creation of a DPS does not in itself commit the Council to expenditure as this is driven by levels of demand. Instead, it creates a mechanism by which to make placements that are covered contractually.
<b>Legal</b>	<p>The procedures adopted by the Council for permanently excluded pupils fulfil its statutory duty under the Education Act 1996 section 19(3A) and (3B)</p> <p>The creation of a DPS requires support from Legal Services to develop the appropriate contractual documentation.</p> <p>The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 confirm that the matters within this report are not functions reserved to Full Council.</p>
<b>Procurement</b>	<p>The value of the proposal requires that an open market procurement exercise be undertaken in order to be compliant.</p> <p>The existing contract for Alternative Provision expires in August 23 although there is an option to extend. A re-commissioning exercise to create a DPS will be undertaken in 2022/23 to create a more flexible approach to engaging a range of providers.</p>
<b>Human Resources</b>	N/a
<b>Property</b>	This is the responsibility of the Provider organisation(s) and will be built into the contract arrangement.
<b>Equalities</b> (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	All Providers are expected to have an Equality and Diversity Policy and ensure that staff are trained appropriately.
<b>Risk Assessment</b>	Included as part of standard Local Authority commissioning and procurement practice. The Local Authority is required to ensure commissioning of services is competitively tendered. If this tender is agreed by Cabinet, the risk of challenge will be mitigated.
<b>Crime &amp; Disorder</b>	Excluded children who are not engaged with a setting are vulnerable to exploitation and grooming by criminal gangs.

<b>Customer Consideration</b>	<p>It is necessary to have a mechanism by which the private sector can be engaged, and placements made to ensure that young people excluded from school can access full time education from the 6th school day.</p> <p>The individual needs of young people are at the centre of the procurement process and subsequent service delivery. Providers will be expected to obtain regular feedback from young people. Results will be shared at Contract Management meetings which will be held quarterly.</p>
<b>Carbon reduction</b>	Providers will be expected to consider environmental factors as part of the social value considerations contained within the tender process.
<b>Health and Wellbeing</b>	<p>Providing a high-quality service to support vulnerable young people will have a positive impact upon health and wellbeing. There is an expectation that Providers will support young people to enjoy good physical, emotional and mental health, encouraging a healthy lifestyle and supporting access to information about health issues that allows them to make informed choices.</p>
<b>Wards</b>	All

## **Background Papers**

## **Report Sign Off**

	Full Name of Officer
Monitoring Officer/Legal	Suki Binjal
Executive Director of Finance & S151 Officer	Jan Willis
Relevant Executive Directors	Audrey Kingham and Graham Reiter
Chief Executive	Rick O'Farrell
Portfolio Holder(s)	Guy Renner-Thompson

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