



**Cabinet**  
14 December 2015

**Report from the Strategic Director of  
Children and Young People**

Wards Affected:  
ALL

**Award of Contracts to Independent Special Schools and  
Brent Schools for Special Educational Provision**

**1. Summary**

In April 2015 Cabinet approval was obtained to negotiate contracts between the council and Brent schools for the continued provision of specialist places for children with special education needs. These are places in Additionally Resourced Provisions (ARP) and English as an Additional Language (EAL) projects. Approval was also gained to negotiate block contracts in independent schools for the academic year 2015/16. The report sets out the outcome of the negotiations and seeks approval to award one year contracts for the academic year 2015/16.

**2. Recommendations**

- 2.1. That Cabinet notes the outcome of Officers negotiations with the schools detailed in Tables 3.1 and 3.2 of the report regarding the provision of specialist places for children with special education needs.
- 2.2. That Cabinet approves a one academic year contract (September 2015 to August 2016 between the council and the schools listed in table 3.1 and 3.2 for the continued provision of Additionally Resourced Provisions (ARP) and English as an Additional Language (EAL) projects at the negotiated rate.

**3. Detail**

- 3.1. The council has a statutory duty to provide full time education for all children and young people of statutory school age. This includes a duty to assess, identify and make appropriate provision for those with Special Educational Needs and Disabilities (SEND) as set out in the SEN Code of Practice 2014 (Children and Families Act

2014 – SEND Reforms). The majority of Brent children with SEND are placed in in-borough mainstream or special school provision. In a minority of cases there are children whose needs require specialist provision which is available in the independent sector.

- 3.2. The council needed to secure specialist provision for children and young people with social emotional behaviour difficulties (SEBD) and high functioning Autism. This led to high numbers of pupils placed with two independent providers, TCES North West London Independent School (TCES NWLIS) for SEBD placements and Centre Academy for pupils with high functioning Autism.
- 3.3. All placements of children with SEND are fully funded by the High Needs block of the DSG. There are no funding implications in this report for the General Fund, however, officers seek to obtain the best value for money for all placements.
- 3.4. The council has expanded its in borough specialist provision in the last four years and has created additional places for children with autism. This coupled with efforts to place children locally and in maintained provision wherever possible, has led to a reduction in the number of pupils placed in TCES NWLIS to 11 and Centre Academy to 25.
- 3.5. During the negotiations the maintained schools listed in table 3.1 have not sought fee increases. However, both TCES NWLIS and Centre Academy sought an increase in fee to cover the increasing cost of meeting the complex needs of pupils.
- 3.6 The ARPs provide specialist places as indicated below:
  - Alperton – Moderate Learning Difficulties (MLD)
  - Claremont High – provision for Year 10 and 11 students with EAL needs
  - Kingsbury High ARP – Hearing Impairment (HI)
  - Preston Manor ARPs – Autism (ASD) and Social, Language and Communication Needs (SLCN)
  - Queens Park –provision for Year 10 and 11 students with EAL needs

The independent schools provide specialist places as indicated below:

- Centre Academy (independent) – Autism (ASD)
- TCES NWLIS (Independent) – Social, Emotional, Behavioural and Mental Health

- 3.7. Tables 3.1 and 3.2 below summarises the final proposed negotiated rates for the schools and ARP's.

**Table 3.1**

School	Details of negotiated rate	2013/14 Contract Value (same rate from 2012-15 per year)	2015/16 Negotiated Value	Comments
Alperton, John Boyle Centre (MLD ARP)	20 students @ £18,852 per place	£205,710	£205,710	No fee increase
Claremont (EAL)	35 students @ £4,792 per place	£167,000	£167,720	No fee increase
Kingsbury High (HI ARP)	7 students @ £10,000 per place	£70,000	£70,000	No fee increase
Preston Manor (ASD and SLCN ARPs)	12 -S&L @£6276 12-ASD @ £12,673	£227,388	£227,388	No fee increase
Queens Park (EAL)	35 students @ £4,792 per place	£167,720	£167,720	No fee increase

- 3.8. The rates at which the places in the ARPs (schools in table 3.1 above) are funded is agreed by the Schools Forum. The schools are not seeking an increase in the place costs for 2015/16. These schools represent value for money and good quality provision within the borough, alongside a range of ARPs in maintained schools which are similarly funded. The arrangement is reviewed by the school forum on an annual basis.

**Table 3.2**

<b>School</b>	<b>Details Negotiate rate</b>	<b>2013/14 Contract Value (same rate from 2012-15 per year)</b>	<b>2015/16 Negotiated Rate “agreed”</b>	<b>comments</b>
Centre Academy (Independent – ASD)	<b>2015/16 - Block 15 places @ £37,875</b>	£525,000	£568,125	8% increase in fees per place for 15/16;
North West London Independent School TCES (NWLIS) (Independent – SEBD)	<b>15/16 - Block 15 places @ £41,500 per place</b>	£582,750	£622,500	7% increase in fees per place for 15/16;

- 3.9. The council's contractual arrangements for placement of individual pupils with Centre Academy and TCES NWLIS expired on 30<sup>th</sup> August 2015, and new fees have been negotiated subject to agreement of a block purchasing arrangement for the period 1<sup>st</sup> September 2015 to 31<sup>st</sup> August 2016.
- 3.10. Contractual negotiations have taken longer than anticipated due to turnover of staff. Discussions regarding the contract have taken place and the schools have agreed to wait for Cabinet approval to be granted to award the contract. If the cabinet approval is not granted, the Council will be charged the spot purchase rate. If the cabinet approval is forthcoming the agreed rate negotiated will be back dated to September 2015.
- 3.11. Pupils normally attend Centre Academy until they have completed Year 14, and are 19 years of age. As of September 2015, there are 25 pupils attending Centre Academy. Officers have negotiated a block contract for a minimum of 15 places with the arrangement that additional place over the 15 (minimum) could be purchased at the same rate as the block contract.
- 3.12. TCES NWLIS is a specialist independent provision for children and young people identified with SEN who may have extremely challenging behaviour, social emotional and/or mental health difficulties. Pupils are often placed here after other placements have failed. Pupils normally leave this provision after completion of NC Year 11.
- 3.13. As of September 2015 there were 11 pupils attending TCES NWLIS. This is below the proposed number of 15 commissioned places. The additional commissioned places is to cover any additional placement likely to be made within the academic year. Furthermore, Officers have liaised with TCES NWLIS and the West London Alliance (WLA) and have secured an agreement to sell any Brent unfilled places across the WLA authorities.

- 3.14. Although the placement costs negotiated for 2015/16 with Centre Academy and TCES NWLIS is an increase on those secured for the previous three year contract (2012-2015), it is still lower than the current spot purchase placement fee charged by the schools. The negotiated rate Brent has achieved for TCES NWLIS and Centre Academy is lower than those of Ealing and Hounslow and other boroughs as shown in the comparison with WLA and other boroughs in Table 3.3. Data for boroughs other than WLA is not available as this is commercially sensitive and not published.

**Table 3.3**

	Brent	Hounslow	Ealing	Purchase rate for WLA other boroughs	Notes
TCES NWLIS	41.5K	43 – 48K	42K	48 - 54.5K	Hounslow - Block contract for ASD provision. Brent – Block Contract for BESD provision. Ealing (cost and volume deal) and not a block contract.
Centre Academy	37.8K	No contract	No contract	39 - 41K	Only Brent in WLA has students at Centre Academy. Other Boroughs pay the rate shown.

- 3.15. The placement costs negotiated for 2015/16 are as follows :-

- TCES NWLIS on a spot purchase is £54,000 per pupil. Officers negotiated a per place cost of £41,500 based on a minimum guarantee of 15 places, this represents a reduction of £13,000 per place on the spot purchase fee.
- Centre Academy on a spot purchase is £43,000 per pupil. Officers have negotiated a per place cost of £37,875 based on a minimum guarantee of 15 places, this represents a reduction of £5,125 per place on the spot purchase fee.
- Officers have also negotiated for any additional place over the 15 (minimum) to be purchased at the same rate as the block contract rate.

- 3.16. WLA is developing Careplace, a provider web solution that will allow local authorities to log their independent place requirements, which would then be sent to a wide range of providers to bid to be the provider. It is expected that as this develops the market it will increase competition among providers and help manage costs.

- 3.17. Schools that provide education for children with ASD and SEBD are highly specialised and there is growing demand for such places. Brent is working with the West London Alliance to work strategically with the key suppliers (increasingly companies running chains of special schools) and also to develop the maintained sector and free-school provision across the west London area.

- 3.18. There is an exemption in the Council's Standing Orders for 'spot' purchase arrangements 'CSO 86(f)(iii)' which enables individual packages of education and

care to be purchased for children who cannot be catered for within maintained schools or within the contractual arrangements detailed in this report.

#### **4. Financial Implications**

- 4.1. The Council's Contract Standing Orders provide that for contracts for services exceeding £250,000, these should be referred to Cabinet for approval.
- 4.2. Appendix 1 sets out the detail of contract costings with TCES NWLIS and Centre Academy. In summary, the contract negotiations have secured a price of £41,500 for TCES NWLIS per place. This is an increase of £2,650 (7%) compared to the previous contract price but a reduction of £13,000 (31%) on the current spot purchase price. In addition, for Centre Academy a price of £37,875 has been secured per place. This is an increase of £2,875 (8%) compared to the previous contract price but a reduction of £5,125 (14%) on the current spot purchase price.
- 4.3. On a like for like basis, based on the actual number of pupils in these schools, the total cost will be £111,625 higher than the previous contract price but £105,125 lower than the current spot purchase price.
- 4.4. If the contracts are awarded, the additional cost of the one year extensions will be contained within the SEND Education Placement Budget (£6.8m in 2015/16) with the aim of minimising any further premium spot purchase arrangements. The additional cost will also be mitigated by selling any spare capacity with boroughs within the WLA. This budget is entirely funded by the Dedicated Schools Grant and has been agreed by the Schools Forum.
- 4.5. There is a transport cost to take pupils to these schools. Currently there are six pupils receiving transport to TCES NWLIS and 22 pupils receiving transport to Centre Academy. Over the last four years the number of pupils transported to these schools has stabilised as we are placing fewer pupils at them. The refresh of the School Place Strategy 2015 recommended creating additional 140 SEN places to reduce reliance on out of borough provision.

#### **5. Legal Implications**

- 5.1 The Education Act 1996, as amended by the Education and Inspections Act 2006, and regulations subsequently issued under it, imposes a duty on local authorities to identify, assess and make provisions to meet the special educational needs ("SEN") of children within their areas by ensuring that sufficient primary, secondary and further education is available to meet their needs. Local authorities are to ensure that their education functions are exercised with a view to promoting high standards, ensuring fair access to opportunity for education and learning, promoting the fulfilment of learning potential; and securing that sufficient schools for providing primary and secondary education are available for their area. The SEN Provisions are also referred to in the Academies Act 2010 and the Education Act 2011.
- 5.2 Contracts for provision of education fall within Schedule 3 of the Public Contracts Regulations 2015. The contracts listed in Tables 3.1 and 3.2 are valued below the threshold for Schedule 3 contracts and as such are not subject to the requirements of EU procurement regulations. Nevertheless, the EU Treaty principle of transparency, non-discrimination and equal treatment would normally require advertising and some

form of competitive process to be undertaken before contract award, even where the value of the contract is below the relevant EU threshold, especially if the contract is likely to attract interest from overseas EU providers. Given the current limited market in the type of services provided by the schools and the short duration of the proposed contracts, it is considered that the award of the contracts will not contravene these general duties.

- 5.3 The value of the proposed contracts set out in Table 3.2 is such that the contracts are classed as High Value Contracts under the Council's Contract Standing Orders and Financial Regulations. As a result Cabinet approval is required to award such the contracts. The value of the proposed contracts set out in Table 3.1 are such that they are either classed as Low Value Contracts or Medium Value Contracts and as such would not ordinarily require Cabinet approval to award. However, the Cabinet Report dated 14<sup>th</sup> April 2015 indicated that Cabinet approval would be sought to the award of all contracts being negotiated

## **6. Diversity Implications**

- 6.1. There are no direct diversity implications in awarding these contracts.

## **7. Staffing/accommodation implications**

- 7.1. This service is currently provided by an external contractor and there are no implications for council staff arising from awarding the proposed contract.

## **8. Background Papers**

- 8.1. There are no background papers associated with this report, however committee is directed to the previous Cabinet Reports (24<sup>th</sup> April 2015) for details about the original contracts with schools and approval to negotiate mentioned in this report.

### **Contact Officer(s)**

Carmen Coffey  
Head of Pupil and Parent Services  
[carmen.coffey@brent.gov.uk](mailto:carmen.coffey@brent.gov.uk) Tel: 020 8937 3033

Cate Duffy  
Operational Director Early Help and Education, Children and Young People  
[cate.duffy@brent.gov.uk](mailto:cate.duffy@brent.gov.uk) Tel: 020 8937 3510

GAIL TOLLEY  
Strategic Director Children and Young People

## Appendix 1– Detail of contract costings for contracts in Table 3.2

Centre Academy and North West London Independent Contract detail										
School	Block contract price per place	Block Contract <u>15 places</u> plus additional places at same price	Contracted number of pupils	Actual cost of places purchased at block contract rate	Spot purchase price per place	Reduced fee rate due to block contract per place	Total cost spot purchase	Savings per annum	Savings contract period	% fee increase
Centre Academy Contract (Sept 2012 to Aug 2015)	35,000	525,000	15	525,000	39,500	4,500	592,500	67,500	202,500	Nil fee increase for 3 year contract period
Centre Academy Contract One year extension (Sept 2015 to Aug 2016)	37,875	568,125	15	568,125	43,000	5,125	645,000	76,875	76,875	8.21
TCES North West London Independent School (Sept 2012 to Aug 2015)	38,850	582,750	15	582,750	48,000	9,150	720,000	137,250	411,750	Nil fee increase for 3 year contract period
TCES North West London Independent School Contract One year extension (Sept 2015 to Aug 2016)	41,500	622,500	15	622,500	54,500	13,000	817,500	Nil	Nil	6.82