



**Cabinet**  
12 February 2018

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

**Authority to Contract Placements for Children with Special Education Needs And Disabilities (SEND) And Looked After Children through the West London Alliance Dynamic Purchasing Vehicles**

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key
<b>Open or Part/Fully Exempt:</b>	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	None
<b>Contact Officer:</b>	Brian Grady Operational Director, Safeguarding, Partnerships and Strategy Tel: 020 8937 4713 <a href="mailto:Brian.grady@brent.gov.uk">Brian.grady@brent.gov.uk</a>

**Purpose of the Report**

- 1.1 Cabinet on the 27 June 2016 agreed for Brent Council to lead the establishment of a Dynamic Purchasing System, an electronic tendering system, on behalf of the West London Alliance of local authorities, for the contracting of Independent and Non-maintained Special School placements for children with Special Educational Needs and Disabilities (SEND).
- 1.2 Further work with the West London Alliance has developed the design and scope of the proposed electronic tendering system, beyond that defined as a Dynamic Purchasing System. West London Alliance authorities have also developed proposals for consistent electronic tendering systems for the contracting of Children's Home and Independent Fostering Agency placements for Looked After Children.
- 1.3 This report seeks Cabinet agreement for a variation to the electronic tendering system proposed for the contracting of Independent and Non-maintained Special School placements for children with SEND. It also seeks Cabinet agreement to utilise the West London Alliance electronic tendering systems for the contracting of Children's Home and Independent Fostering Agency placements for Looked After Children.

## **2.0 Recommendation(s)**

It is recommended that Cabinet:

- 2.1 Approves the variation from a Dynamic Purchasing System to a Dynamic Purchasing Vehicle for the procurement of Independent and Non-maintained Special School (INMSS) placements for children with SEND.
- 2.2 Approves the Council's entry into an Access Agreement with Barnet for Brent Council to call-off the West London Alliance (WLA) Dynamic Purchasing Vehicle for Independent Fostering Agency placements for Looked After Children.
- 2.4 Approves the Council's entry into an Access Agreement with Ealing for Brent to call-off the West London Alliance's (WLA) Dynamic Purchasing Vehicle for Children's Home placements for Looked After Children.

## **3.0 Detail**

- 3.1 The Local Authority has a statutory duty to ensure sufficiency of suitable local services to meet the needs of Looked After Children, Care Leavers and children with SEND.
- 3.2 To help the Council to meet its statutory duties with regard to children with SEND, Cabinet on 27 June 2016 approved the development of an electronic tendering system known as a Dynamic Purchasing System (DPS), led by Brent and to be used by Brent and the other West London Alliance local authorities. This is a particular model of electronic tendering system defined in Regulation 34 of the Public Contract Regulations 2015.
- 3.3 Through the development of the proposed DPS, the WLA authorities have concluded a DPS as defined in the Public Contract Regulations is too restrictive. Greater flexibility is required to meet the needs of children and young people, in line with the flexibilities available for purchasing placements for children as set out in Schedule 3 of the Public Contract Regulations.
- 3.4 The approach developed is called a Dynamic Purchasing Vehicle (DPV). The DPV retains the principles and elements of a DPS but has two key differences:
  - The process proposed remains electronic, but in variation from a DPS the final part of the selection process will now be offline and subject to LA officer final decision.
  - In a DPS, organisations are held to a maximum price at the admittance stage, but providers will now be asked to provide a 'core' fee for information only at application stage, and specify and quantify any additional costs for additional services assessed at individual call off stage. This will allow for tailoring of placements with additional resources when required to meet individual children's needs.
- 3.5 Over the past twelve months, WLA authorities have developed the same DPV approach for Independent Fostering Agency placements and Children's Home

placements. The Independent Fostering Agencies DPV development has been led by Barnet Council. The Children's Homes DPV development has been led by Ealing Council.

- 3.6 The WLA authorities have used a consistent approach to the development of DPVs, with the use of consistent core documentation. A bespoke procurement portal, developed by Curtis Fitch, will act as an electronic Procurement platform for all three DPVs.
- 3.7 The DPVs will be available to all 9 WLA boroughs, other interested local authorities and other organisations that have statutory duties relating to children and will be operational from April 2018.
- 3.8 All three DPVs will deliver the following benefits:
- Improved outcomes for children and young people by increasing the choice of provision and services on offer, ensuring flexibility of provision to meet individual need.
  - Stability in the market with the consequence of improved quality and impact on care for children by establishing a consistent approach to purchasing and contracting across boroughs, specifications, quality control and performance management.
  - More placements closer to Brent by increasing access to a broader supply base geographically spread across West London and increasing competition between providers.
  - Consistent quality assurance helping providers focus on shared quality standards. Suppliers must first be 'accredited' against a set of quality criteria dictated by the WLA authorities before being granted entry to the DPV. This ensures that only high quality suppliers with strong financial checks are permitted to submit bids.
  - Cost effective placements and value for money. The increased purchasing power and the higher level of competition of the DPVs should realise financial benefits. Bids will be ranked in terms of both cost and quality, allowing the Council to demonstrate that placements represent value for money.
  - Market intelligence to identify and potentially mitigate market failure.
  - Information sharing and an ongoing partnership relationship will be developed electronically with early warning processes across LAs of market challenges or supplier issues.
  - DPVs are compliant with the Children & Families Act 2014, Care Act 2014 and Public Contracts Regulations 2015, thereby lowering the risk of legal challenge when spot purchasing directly from providers. To reduce the risk of legal challenges, the DPVs ensure that spot purchasing is covered by the OJEU Contract notice which indicates the services which will be procured, award criteria to be used and individual DPV agreements with providers. The DPV will seek competitive quotes wherever possible and ensure that services are registered, as required, by Ofsted and/or equivalent.

## 4.0 Financial Implications

- 4.1 Independent Fostering Agencies (IFA) - the 2017-18 expenditure budget in Brent for IFA placements is £3.745m supported entirely from the General Fund. At November 2017, there were 83 full time equivalent places at a unit cost of £855 per week. The forecast spend in 2017-18 is £3.8m.
- 4.2 Children's Homes - the 2017-18 expenditure budget in Brent for Children's Home placements is £2.782m supported by the General Fund (£1.772m) and the Dedicated Schools Grant (£1.01m). At November 2017, there were 17 full time equivalent places at a unit cost of £3.2k per week. The forecast spend in 2017-18 is £2.9m.
- 4.3 Independent and Non-Maintained Special Schools - the 2017-18 expenditure budget in Brent for Independent Non-Maintained Special Schools is £7.538m supported entirely from the Dedicated Schools Grant. At November 2017, the forecast spend in 2017-18 is £6.8m.
- 4.4 The new purchasing vehicles outlined in this report are expected to contribute to controlling the cost of placements by cost avoidance (controlling inflation within the contractual arrangements), discounts for volume or block bookings and extending competition by widening the number of suppliers available to commissioners.
- 4.5 The WLA has worked with Lead Local Authorities, including Brent, to model the following forecast of financial benefits:

DPV	Cost Avoidance (£k)	Cashable Savings (£k)	Total (£k)
IFA	1,945	1,066	<b>3,011</b>
Children's Homes	1,145	516	<b>1,661</b>
SEND	0	0	0
<b>Total</b>	<b>3,090</b>	<b>1,582</b>	<b>4,672</b>

- 4.6 The table above shows the potential to control expenditure across 3 years of the DPVs across all local authorities in the WLA. In addition, once the DPVs are in place, there is potential for additional savings utilising block contracts for IFA and Residential services in the range of £2.6m - £3.3m across 3 years and all the WLA authorities.
- 4.7 SEND – Prices will be determined at point of call-off from the DPV and savings will still be achieved through cost avoidance of inflationary increases of placements made on the DPV. The forecast level of savings is difficult to calculate so has been excluded from the overall forecast.
- 4.8 IFA DPV Benefits Forecast - assuming no significant changes in placement activity, there is potential to deliver savings as set out in the table below over 3 years of the DPV.

LA	3 Year Benefits Forecast			
	Inflation (£k)	Permanence (£k)	Siblings (£k)	Total (£k)
Barnet	265	141	43	449
Brent	254	108	17	379
Ealing	496	250	0	746
Harrow	92	28	30	150
Hillingdon	239	88	38	365
Hounslow	246	71	41	359
Hammersmith & Fulham	160	61	40	261
Kensington & Chelsea	45	11	20	75
Westminster	149	38	41	228
<b>West London</b>	<b>1,945</b>	<b>796</b>	<b>270</b>	<b>3,011</b>

- 4.9 Children's Home DPV Benefits Forecast - assuming no significant changes in placement activity, there is potential to deliver savings as set out in the table below over 3 years of the DPV.

LA	3 Year Benefits Forecast		
	Inflation (£k)	Permanence (£k)	Total (£k)
Barnet	192	115	307
Brent	255	70	325
Ealing	213	103	316
Harrow	69	35	104
Hillingdon	172	79	251
Hounslow	84	50	135
Hammersmith & Fulham	84	19	103
Kensington & Chelsea	34	26	60
Westminster	42	18	59
<b>West London</b>	<b>1,145</b>	<b>516</b>	<b>1,661</b>

## 5.0 Legal Implications

- 5.1 As detailed in paragraph 3.3, officers are recommending that the electronic tendering system for Special Educational Needs and Disabilities is not procured as a DPS strictly in accordance with Regulation 34 of the Public Contracts Regulations 2015. Instead it is proposed that the electronic tendering system is established and operated in a more flexible manner than is permitted for a DPS. As the services to be procured fall within Schedule 3 of the PCR 2015, the Council is permitted to take a more flexible approach to the establishment and operation of an electronic tendering system.
- 5.2 Cabinet on 27 June 2016 delegated authority to the Strategic Director for Children and Young People to award High Value Contracts for educational

placements procured through the DPS. Cabinet is asked to confirm this and other approvals now that the electronic tendering system is termed a DPV.

- 5.3 In addition to the establishment of the DPV for Special Educational Needs and Disabilities for Independent and Non Maintained Special Schools led by Brent Council, Barnet Council is leading on the establishment of a DPV for Independent Fostering Agency placements and Ealing Council is leading on the establishment of a DPV for Children's Home placements. To enable Brent to access these other DPVs it will be necessary for Brent to enter into Access Agreements with both authorities. Similarly all authorities accessing the DPV for Special Educational Needs and Disabilities will need to sign Access Agreements with Brent.

## **6.0 Equality Implications**

- 6.1 The WLA DPV Procurement has considered equality impact and equality assessments during the procurement processes, with separate equality analysis assessments conducted for each procurement exercise. The WLA DPV Procurement will not disadvantage any equality groups or sub-groups; in fact it promotes equality and diversity in a number of ways. For example, it encourages all contractors to consider what equality policies and practices they have in place and whether they meet the Council's own standards and policies. It is anticipated that the DPV will provide consistency in quality and best value in commissioned SEND provision.

- 6.2 Equalities issues relating to individual children and young people will be included in the assessment process for individual placements. The INMSS DPV will cover providers that are subject to regulation by OFSTED to provide services to children and young people who are in receipt of an Education, Health and Care Plan or undergoing Statutory Assessment of Special Educational Needs as specified under the Children and Families Act 2014.

## **7.0 Consultation with Ward Members and Stakeholders**

- 7.1 As this report affects all wards, consultation with specific ward members has not been conducted.
- 7.2 Consultation with service users – parents and carers and children and young people - has been integral to the procurement process. This included focus groups and questionnaires that asked for feedback on what works well and areas for improvement in the current service and service gaps. Views from this consultation informed the WLA service specifications to ensure services meet the needs of children and young people and their carers.
- 7.3 A range of stakeholders were consulted as part of market warming events on 18 October 2016 and 17 December 2017. These provided the opportunity for providers to inform development of the DPVs.

## **8.0 Human Resources/Property Implications (if appropriate)**

- 8.1 There are no human resources or property implications.

**Report sign off:**

**GAIL TOLLEY**

Strategic Director of Children and Young People