

# DYNAMIC PURCHASING SYSTEM: THE PROVISION OF ALTERNATIVE PROVISION FOR CHILDREN AND YOUNG PEOPLE IN HILLINGDON

<b>Cabinet Member(s)</b>	Cllr Susan O'Brien
<b>Cabinet Portfolio(s)</b>	Cabinet Member for Children, Families & Education
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<b>Papers with report</b>	N/A

## HEADLINES

<b>Summary</b>	<p>The Council has a statutory responsibility to provide education to all resident children and young people; in some instances, the education provided in a mainstream education setting is not appropriate and an Alternative Provision is required.</p> <p>The proposal is to establish a Dynamic Purchasing System (DPS), allowing Officers to create and maintain an approved pool of Alternative Provision providers to ensure market availability and best value to meet the needs of the children in the borough who require access to Alternative Provision. Approved providers will then be invited to bid for individual placements or for block placements through mini competitions (a 'call off'), thus offering assurance on compliance and value for money.</p>
<b>Putting our Residents First</b>  <b>Delivering on the Council Strategy 2022-2026</b>	<p>This report supports our ambition for residents / the Council of: An efficient, well-run, digital-enabled council working with partners to deliver services to improve the lives of all our residents</p> <p>This report supports our commitments to residents of: Thriving, Healthy Households</p> <p>This report supports our commitments in our Special Educational Needs and Disabilities and Alternative Provision Strategy 2023-26.</p>
<b>Financial Cost</b>	The implementation of the DPS has no direct financial implications, but will be used to support service procurement and provision against an approved budget of £2.7m per annum.
<b>Relevant Select Committee</b>	Children, Families and Education
<b>Relevant Ward(s)</b>	N/A

## RECOMMENDATIONS

**That the Cabinet:**

- 1. Approve the implementation of the Dynamic Purchasing System for Alternative Provision to enable services within Education to effectively manage their significant procurement activity over the next 7 years commencing in 2024, ensuring that children and young people are able to receive appropriate education to meet their needs.**
- 2. Note the existing delegated authority to officers to approve Education placements at relevant establishments, under any new Dynamic Purchasing System.**
- 3. Instruct officers to provide regular monitoring of such expenditure to the Cabinet Member in pursuit of the Council's objectives.**

### **Reasons for recommendation**

The needs of most children and young people can be met through mainstream education provision, but a small proportion with the most complex needs require specialist support. This enables them to progress in their learning, going onto their next step towards a settled adulthood. Some children and young people however need education or training arranged outside a mainstream or specialist setting because otherwise they would not receive suitable education or training. This can be for a number of reasons:

- Children and young people who have been permanently excluded from their school.
- Children and young people who have medical and mental health needs preventing them from attending a school.
- Children and young people at risk of suspension, on a fixed period suspension, or directed by schools to off-site provision to support behavioural and emotional challenges.
- Young people aged 16 – 25 with an Education Health and Care Plan (EHCP) or other vulnerabilities needing additional support to progress to a settled adulthood.
- Children and young people unable to cope with a full-time curriculum, missing out on education, or who find themselves marginalised from mainstream schools because of behavioural or other challenges.

Services within Education utilise multiple providers to undertake the Council's statutory responsibility to provide education to all resident children and young people, which can include via an Alternative Provision if this is considered most appropriate to meet their needs.

Use of a Dynamic Purchasing System (DPS) will create a competitive environment for suppliers and ongoing assurance on value for money whilst also ensuring a breadth of provision will be available to best meet the needs of a diverse and fluid cohort of children and young people. There will be four Lots that Providers will be able to apply for:

- Lot 1: Full time education provision
- Lot 2: Part time education provision
- Lot 3: Bespoke provision
- Lot 4: Support for post-16 Education and Preparation for Adulthood

At the time of application, Providers will submit a Pricing Schedule for their range of services, which will be a maximum price for services, and will be used to award individual placements. Before an Alternative Provision placement award is successful, Providers may need to demonstrate they can meet the needs of the child or young person if further quality criteria are required from initial admission, that they have sufficient capacity, and the DPS call-off process is to the Providers who are the best value for money.

There will also be the ability to award contracts for a block of placements to Providers during the term of the DPS. The quality criteria will be set by the service area at the time of each block contract opportunity, and Providers will be able to submit a specific price for each opportunity and the successful Provider will be selected through a mini competition based on an evaluation process of 50% quality and 50% price.

The DPS allows for new entrants to join at any time, subject to them completing and passing the relevant qualification criteria. This ensures that there will be sufficient provision available to meet the needs of children and young people and will support high compliance standards. This also enables market development opportunities to keep up with changing demands pressure, and service development.

In respect of recommendations 2&3, currently, in the Officer Scheme of Delegations, as is the case with similar children, nursing and other disability placements etc..., Education and SEND placements can be approved up to £5000 per week (or max £190k per annum) by the Director of Education and SEND. Placements over £5000 per week are approved by the Corporate Director of Children's Services. The Cabinet Member will be updated by officers regularly on the cost of such placements and to ensure that the DPS contributes towards the efficiencies needed in support of the Council's Safety Valve Agreement.

### **Alternative options considered / risk management**

One alternative option for procuring the services of Alternative Provision providers is to continue to follow the current process, which permits individual Officers to commission freely from the market based on the provider they consider can best meet the child or young person's need. This option is considered to place the Council at too great a risk as adequate processes for compliance, market engagement and quality assurance cannot be in place.

A further option for procuring the services of Alternative Provision providers is a 'closed framework' (once suppliers are designated, no new providers can join the framework). This option offers less flexibility to meet the dynamic nature of the Service and cohorts of children. This option can create a lack of competition and service continuity issues, where alternative providers could not be easily sought to meet increasing or changing service needs/provider shortages.

A DPS differs from a closed framework in that governing regulations allow the Council to advertise on an on-going basis for new providers to join the system at any point during the lifespan of the DPS.

Successful providers are invited to participate in a competitive process to deliver a range of services for individuals and groups of children, as and when required. Quality and compliance criteria are evaluated upon application to the DPS and will be monitored throughout. Providers cannot participate in this competitive process until they have completed and passed the DPS application process.

## **Democratic compliance / previous authority**

Cabinet Member authority is required to agree strategic procurement arrangements amounting to such value of contracts. This will also support governance around such arrangements, as there is also no contract in place currently for the vast majority of alternative provision, which is currently commissioned on a spot purchase basis.

## **Select Committee comments**

None at this stage.

## **SUPPORTING INFORMATION**

### **What is Alternative Provision?**

1. The definition provided by the Department for Education (DfE) for Alternative Provision is 'education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a fixed period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour'. This is the definition which Hillingdon adopts.
2. Alternative Provision can take many different forms, depending on the individual needs of the child. It is important the service commissioning the provision is clear on whether the provision is a registered school with a DfE number, or an unregistered setting as this will have considerations regarding how many hours a pupil can access the provision. In all cases, the provision should be both efficient in its delivery of education and suitable to the child's age, ability, and aptitude; and to any special educational needs they may have.
3. Before considering alternative provision for a child, the Council needs to ensure both the quality of education and the safety of pupils within a setting. The DfE describes good alternative provision as 'that which appropriately meets the needs of pupils and enables them to achieve good educational attainment on par with their mainstream peers. All pupils must receive a good education, regardless of their circumstances or the settings in which they find themselves.'
4. Provision will differ from pupil to pupil, but there are some common elements that alternative provision should aim to achieve, including:
  - good academic attainment on par with mainstream schools, particularly in English, mathematics, and science (including IT), with appropriate accreditation and qualifications;
  - specific personal, social, and academic needs of pupils are properly identified and met to help them to overcome any barriers to attainment; and
  - improved pupil motivation and self-confidence, attendance, and engagement with education; and clearly defined objectives, including the next steps following the placement such as reintegration into mainstream education, further education, training or employment'.

5. Alternative provision should be good quality, registered where appropriate, and delivered by high quality staff with suitable training, experience, and safeguarding checks. It should have clearly defined objectives relating to personal and academic attainment. Where an intervention is part-time or temporary, to help minimise disruption to a pupil's education, it should complement and keep up with the pupil's current curriculum, timetable, and qualification route.

### **Current Hillingdon Context**

6. The number of children requiring access to an Alternative Provision in Hillingdon fluctuates throughout the year. There are on average at any time approximately 100 children accessing Alternative Provision commissioned by the Council.
7. The majority of these places are commissioned by the Special Educational Needs and Disabilities team or the Exclusions and Reintegration team. In many cases this is because a mainstream or specialist setting cannot meet the child's current SEND needs, or they have been permanently excluded.
8. Some children's needs are being met in a group setting and others require 1-1 support. Hillingdon commissions from a range of providers, including Alternative Provision Free Schools, Further Education Colleges and Sixth Form Centres, Tuition Centres and Personal Tutors.
9. The demand for Alternative Provision is expected to increase over the coming years, in line with the expected growth in EHCPs. However, the additional specialist provision capacity that will be available in the Borough, and the work related to the Department for Education (DfE) safety valve programme are likely to mitigate any additional costs.

### **Procurement approach**

10. To contract with external suppliers, services in Education will be required to adhere and be compliant with all procurement legislation and regulations.
11. As mentioned above, a DPS differs from a closed framework in that governing regulations allow the Council to advertise on an on-going basis for new suppliers to join the system at any point during the lifespan of the DPS.
12. Successful providers are invited to participate in a competitive process to deliver a range of services for individuals and groups of children, as and when required. There will be the ability for Providers to bid for individual placements or block placements throughout the lifetime of the DPS. The scope of each referral or block contract will vary dependent upon the needs of the child or group of children.
13. Quality and compliance criteria are evaluated upon application to the DPS and will be monitored throughout. Providers cannot participate until they have completed the application process. There will be minimum requirements for providers to adhere to in a number of areas, including safeguarding and health and safety.

14. This approach will ensure that quality and value for money are considered for these services, and the flexible approach will allow the Council to develop the market, and services to respond to the changing demand and needs of the children and young people of Hillingdon.

## **Financial Implications**

This report is requesting the approval for the implementation of the Dynamic Purchasing System (DPS) framework for Alternative Provision for a period of 7 years, starting from April 2024.

The use of the Dynamic Purchasing System (DPS) is being recommended as it creates natural competition, further enhanced by using mini competitions where the quality criteria will be set by the service area and awarded based on best value. This provides ongoing assurance on value for money and the needs of all children being met in the most appropriate way.

The cost of the DPS is expected to facilitate the efficient deployment of a currently budgeted £2.7 million approximate annual cost based on current expenditure, with a total of £18.9 million over the 7 years of the DPS with the cost of the DPS also being met from within this envelope. Running concurrently with the lifespan of the DPS will be the Council's Safety Valve agreement with the Department for Education. Through this agreement, it is projected that the SEND service will make an approximate saving to their budget for Alternative Provision of £750,000 across a period of 5 years through an increase in the use of group tuition rather than delivery 1-1 and an increase in the number of special school places available. The use of the DPS is expected to play a significant role in meeting this objective.

## **RESIDENT BENEFIT & CONSULTATION**

### **The benefit or impact upon Hillingdon residents, service users and communities**

The change in procurement activity will not affect service delivery to residents. It is expected that the quality and costs of services will be maintained and improve by using a DPS Framework.

### **Consultation carried out or required**

During the spring term 2023, schools and internal colleagues in Hillingdon were asked to contribute to a survey based on Alternative Provision. The survey shared with internal colleagues across a range of teams in Children's Services, including Education, Social Care and the Youth Justice Service. The most notable findings from this survey were:

- Only 7% of survey participants feel there is enough Alternative Provision in Hillingdon
- When asked about concerns relating to alternative provision, responses included:
  - Limited offer - would be good to have some more vocational providers or outdoor education
  - We need to have resources available to review and challenge existing provision regularly
  - We sometimes have young people that pose significant risk to one another in the same provision or refusing access to education due to this risk

The survey shared with schools was completed with Designated Safeguarding Leads (DSLs) and included all schools in the borough. The most notable findings from this survey were:

- 37% of respondents have referred children to an alternative provision in the last 2 years
- 76% of participants said there is a gap in alternative provision. 36% of these said the gap was in social, emotional and mental health needs (SEMH) and 24% said there was a gap in primary provision.
- 59% felt there was not enough alternative provision on offer in the borough
- Only 10% of respondents felt the local authority does enough to meet the needs of the children in their setting.

Schools were also invited to attend a market engagement event in October 2023 to share their views. This event was attended by a range of providers, some of whom are already being commissioned by the Council. Attendees were provided with an overview of the plan for the DPS Framework and given the opportunity to share their views and suggestions. The feedback from this event was very positive with the majority of attendees expressing a keen interest in applying to the DPS.

## CORPORATE CONSIDERATIONS

### Corporate Finance

Corporate Finance have reviewed this report and concur with the Financial Implications set out above, noting that there are no direct financial implications associated with the recommendations contained within this report. Furthermore, it is noted that the implementation of a Dynamic Purchasing System for Alternative Provision will enable the procurement and service provisioning against an approved budget of £2.7m and is expected to contribute towards efficiencies in support of the Council's Safety Valve Agreement.

### Legal

Legal Services confirm that the Council is responsible for this function pursuant to section 19 of the Education Act 1996.

Regulation 34 of the Public Contracts Regulations 2015 provides that the Council may use a dynamic purchasing system (DPS) for commonly used purchases. The Regulation sets out the compulsory and elective features of a DPS and rules for its operation and use for competition, tender, and award. Provided that the DPS for alternative provision meets these statutory standards, there are no legal impediments to the Council following the recommendation set out in this report, namely implementing a DPS for alternative provision for use across the Council's services within Education over the next 7 years.

Any contract that is entered into, such as contract for alternative provision resulting from a provider's participation in the DPS, must comply with the Council's Contract & Procurement Standing Orders.

## BACKGROUND PAPERS

- [Statutory guidance: alternative provision](#)
- [Guidance on children with health needs who cannot attend school](#)
- [Reforming alternative provision](#)

- [Keeping children safe in education - statutory guidance](#)
- [Working Together to Safeguard Children 2018](#)
- [Hillingdon's policy for the alternative education arrangements of children who miss school due to health reasons](#)
- Hillingdon's Draft SEND and Alternative Provision Strategy 23-26 (currently being issued for Cabinet Member approval)