

**SURREY COUNTY COUNCIL**

**CABINET**

**DATE: 25 JUNE 2013**

**REPORT OF: LINDA KEMENY, CABINET MEMBER FOR SCHOOLS AND LEARNING**

**LEAD OFFICER: GARATH SYMONDS, ASSISTANT DIRECTOR FOR YOUNG PEOPLE**

**LAURA LANGSTAFF ACTING HEAD OF PROCUREMENT AND COMMISSIONING**

**SUBJECT: AWARD OF CONTRACTS FOR THE DELIVERY OF POST-16 FURTHER EDUCATION SERVICES TO YOUNG PEOPLE WITH SPECIAL EDUCATIONAL NEEDS AND DISABILITIES (SEND)**



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#### **SUMMARY OF ISSUE:**

The Children and Families Bill is proposing a more integrated approach to provision for children and young people with Special Educational Needs and Disabilities (SEND) across the 0-25 age range.

As part of this change, funding of education and training for young people aged 16-25 is changing. Previously this funding was allocated to providers by a national body, The Education Funding Agency (part of the Department for Education – EFA). From 1 September 2013, an element of the funding will be passed to Local Authorities to fund the commissioning of provision for young people resident in their area. This funding is through the Dedicated Schools Grant – known as element 3. The EFA will continue to provide some direct funding to post 16 providers, and this is termed elements 1 and 2. All elements are based on 2012/13 student number statements provided by post 16 providers. The commissioning duty passed to Local Authorities in April 2010 and the change in the funding will now complete the shift to local commissioning arrangements.

This paper outlines these changes and seeks agreement to new contracts for the education and training provision for young people in 63 Independent Specialist Colleges (ISCs) for 2 years from 1 September 2013. In this period new future arrangements and contracts will be developed for 2015 onwards.

#### **RECOMMENDATIONS:**

It is recommended that the Cabinet authorises:

- (1) The Council to enter into contracts for 2 years from 1 September 2013 with 63 providers as named in item 12, the confidential Annex to this report, all of which are existing Independent Specialist College providers providing post-16 further educational services to young people with Special Educational Needs and Disabilities on terms to be agreed with Legal Services for both existing and new placements with these providers.

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- (2) The estimated value of these contracts over a two year period will not exceed £18.1m.

#### **REASON FOR RECOMMENDATIONS:**

The recommendation ensures continuity of provision for young people already in placements that will continue into the academic year 2013-14 and provides a contractual basis for new placements starting in September 2013.

The new contracts will ensure 2 academic years are contracted with providers and this encompasses the variations in provider college holiday periods. No service will be required from the providers in the period from 31 July 2013 to 30 August 2013.

The current value of these contracts is £9,048,947 for a full academic year.

#### **DETAILS:**

##### **Business Case**

1. Until September 2013 the provision of further education for young people and adults aged 16-25 with Special Educational Needs and/or Disabilities (SEND) at Independent Specialist Colleges (ISC), General Further Education Colleges (GFE) and Sixth Form Colleges (SFC) was directly funded and contracted by the Education Funding Agency (EFA). The element 3 funding will transfer to Surrey County Council on 1 September 2013. This corresponds to £9.048m for the full academic year as described at paragraph 21.
2. The current EFA contracts with the ISCs will expire in July 2013. Surrey will require new contracts with the existing 63 ISCs to continue to provide the education and training services for young people and adults aged 16-25 years. These contracts will be established for 2 years through to 31 July 2015. New commissioning arrangements and contracts will be developed for 1 September 2015 onwards. These new arrangements will be informed by the needs analysis, provision mapping and suppliers relationship management referred to at paragraph 10. There is likely also to be a reduction in the numbers of providers at that stage.
3. The scope of provision includes residential and non-residential further education in Surrey and other areas at Independent Specialist Colleges (ISCs), General Further Education Colleges (GFE) and Sixth Form Colleges (SFC) providing education, health and care of 16-25 year olds with Special Educational Needs and/or Disabilities (SEND) resident in Surrey.
4. Under the new arrangements, the council will commission places for young people at ISCs, GFEs and SFCs. EFA will provide element 1 and 2 funding at £10,977 pa per young person/adult directly to ISCs, GFEs and SFCs. In addition, where provision required to meet the learner's needs exceeds £10,977, the County Council will fund the additional costs from the element 3 funding included in DSG.
5. The objective is to ensure that the commissioning of further education for young people and adults with SEND is based on life outcomes, such as educational progress, independent living skills and employability. Commissioning arrangements also need to ensure value for money for the

council. All young people with SEND receive Learning Difficulty Assessments from Year 9 onwards which supports the drive for every young person to have a pathway for their education. Further, there is a particular focus this year on a smooth transition for all young people to mitigate the risk of any delays or young people not being placed as a result of the impact of the national changes.

6. The changes present the council with some opportunities, some significant risks and require immediate action to let contracts with the ISCs.
7. The area for immediate action is the need for new contracts for young people already in ISCs or about to start at an ISC in September 2013. The EFA contracts with the ISCs cannot be novated and all will expire on 31 July 2013 and terminate. Surrey therefore has to establish new contracts with new service specifications and contract with the existing providers for on-going provision to continue and for new commissioned provision from 2013/14. No service will be required from the providers in the period from 31 July 2013 to 31 August 2013.
8. Opportunities are presented through the more local approach to commissioning. This supports the development of stronger relationships with providers focused on achieving more flexible placements, with a stronger focus on outcomes and improved performance management. For example, packages can be developed with a greater focus on education and training to support employability and independent living. A closer working relationship with the County Transition Team also offers the opportunity to plan in a more holistic way with young people and their families.
9. There are significant risks, however, as there is a growth in the numbers of young people requiring specialised provision and an increasing complexity of need. This results from some children and young people with complex needs living longer as a result of health improvements. There are also increasing expectations from parents/carers. These are partly supported by national developments such as the expectations of provision to age 25 through the Green Paper 'Support and Aspiration: A New Approach to Special Educational Needs and Disabilities' and the subsequent Children and Families Bill. The Children and Families Bill also proposes the extension of the tribunal arrangements beyond school.
10. In readiness for the new responsibilities, the local authority is strengthening relationships with providers and seeking greater flexibility and reduced costs through a programme of Supplier Relationship Management (SRM). This involves a series of planned meetings with each provider, prioritised according to the values of each commission. Additionally, as part of the Surrey SEND strategy more local provision is being developed and assessments are being managed earlier and with stronger links between education, health and social care. The Council is also working on a comprehensive needs analysis and provision mapping to inform future commissioning, linked to the Public Value Programme in Children, Schools and Families.
11. The commissioning of all provision will be managed in consultation with Children's Services, Schools and Learning, Adult Social Care commissioning and Transition and Employability and with Health services. More integrated arrangements are being developed for the future as part of the Education,

Health and Care Plan. This will require joint commissioning and a full financial contribution for each element of the placement.

12. As part of preparation for these changes, Surrey County Council Cabinet agreed the strategy for Learners Difficulties and Disabilities on 30 November 2010. This set priorities for the development of more local provision, earlier assessment of need and more integrated approaches. Up to this point, placements in Independent Specialist Providers had been growing at 10-15% per annum. Since the implementation of the strategy, not only has further growth been avoided, but placements have reduced by 30%. The challenge now is to manage the forecast further growth in need and demand for provision. This work is being addressed across the 0-25 age range through the Children, Schools and Families Public Value Review.
13. More recently, a Peer Review has been conducted of Surrey's approach to preparation for Raising the Participation Age, with a particular focus on young people with SEND. This was led by a Director from a South East local authority and supported by senior managers from other local authorities. The report was positive in its recognition of work to date to reduce the volume of placements and the wider preparations for raising participation, whilst recognising future challenges.
14. The Council has been working closely with the South East Network, the EFA and its partners in SE7 regarding the reform changes. This has resulted in the agreement to use the revised National Schools and Colleges Contract (previously the National Schools Contract) and to help develop this contract. Due to the advanced work done by the Council we were able to contribute to these changes, in particular with regard to the ISC schedule section of the contract.

#### **CONSULTATION:**

15. Consulted: Denise Le Gal, Cabinet Member for Business Services; Mrs Linda Kemeny, Cabinet Member for Schools and Learning; Mrs Kay Hammond, formerly Cabinet Member for Community Safety; Mr Michael Gosling, formerly Cabinet Member for Adult Social Care and Health and Mary Angell, Cabinet Member for Children and Families.
16. The development of the new funding arrangements has involved The School and College 16-19 Funding Group, which includes representation of Surrey Schools, Colleges and Independent Specialist Colleges. This group is a sub-group of both the Surrey 14-19 Partnership and the 14+/Transition to Adulthood Working Group.

#### **RISK MANAGEMENT AND IMPLICATIONS:**

17. There is a risk that if the contracts were not put in place, those young people and adults currently on agreed placements and those who require placements from 2013, would need to be found new provision. Surrey does not have the capacity or capability to deliver these services and therefore there is a risk that these young people and adults would have no educational provision available to meet their needs from September 2013.

## **Financial and Value for Money Implications**

18. The total estimated full year cost of the expected service provision with ISCs is £9,048,947. This is based on an assumption of 115 learners; known actual costs are used for 69 of the learners who were identified as either continuing (56) or new confirmed placements (13). For the remaining 46 an average unit cost was used based on historic data until further information is known on confirmed destination and costing at an average unit cost of £78,687. This unit cost is inclusive of the £10,977 direct funding (elements 1 & 2) from the EFA. Assumptions at this stage have had to be made in order to get the contracts in place in readiness for September 2013.
19. Benchmarking has been carried out to compare the cost with other providers and the initial value for money assessments have found that the costs are comparable with other providers and current industry standards.
20. The assumptions i.e. numbers of learners and unit costs need further analysis to determine their accuracy. This more detailed analysis will take place during September and October once the placements have been made in the first year. A cost baseline will be established and will form the basis of future financial modelling. This improved information will shape future commissioning decisions, business planning and budget setting.
21. As background it is useful to know that the current contracts that the council has for post 16 SEND services with the GFE colleges and the SFCs are estimated to cost around £2,943,250. This is based on an assumption of 193 learners at an estimated unit cost of £15,250. The average costs are not directly comparable to average costs for ISCs, as any comparison needs to consider the needs of the young people, which vary considerably. Again this unit cost is inclusive of the £10,977 direct funding from the EFA. These assumptions will also need further analysis and will inform forecast costings and budget setting. Post 16 provision is also provided in schools and is in addition to the ISC's, GFE and SFC provision, but is funded on the same basis.
22. The contract duration for the ISCs is for two years before revision and therefore the total estimated contract cost is £18,097,894 for this period.
23. The contracts will be subject to a programme of supplier relationship management (SRM) for the two year duration to drive best value from the providers and subject to review competitive bidding options will be considered.

## **Section 151 Officer Commentary**

24. The ISC contracts need to be commissioned in order to ensure continuity of service for the existing and new placements for 2013/14. The budget available to fund at the existing service levels is sufficient, but the s151 officer acknowledges that there is the potential for volumes and therefore costs to increase in future years in meeting the 0-25 year's national agenda. The numbers and costs underpinning these required contracts are based on the best information currently available.
25. A cost baseline for post 16 SEN will be established following September's admissions which will be monitored and used as the basis for financial

modelling, informing the budget allocation, future commissioning requirements and business planning. An additional £3m for these services has already been included in the current medium term financial plan to acknowledge the potential risks for increased costs in this area.

#### **Legal Implications – Monitoring Officer**

26. There is acknowledgement of the requirement to provide new contracts to replace the EFA contracts currently in place. It is anticipated that the contracts will be based on the existing National Schools Contract for independent and non-maintained schools with terms and conditions suitably revised and agreed by Legal Services to provide for post-16 provision and to be used for both existing and new placements from the 1 September 2013.

#### **Equalities and Diversity**

27. An equalities impact assessment has been completed and is published on the web. The changes have positive implications for equalities and diversity and they give greater local discretion to improve outcomes for young people with special educational needs and disabilities.

#### **Safeguarding responsibilities for vulnerable children and adults implications**

28. Under the EFA, safeguarding is the responsibility of the providers with overview by the Local Authority and this will continue with the new contracts.

#### **WHAT HAPPENS NEXT:**

29. The next steps are:

- 31 July 2013 EFA contracts expire and terminate
- 1 Sept 2013 Award of Surrey contracts to current providers
- 1 Sept 2013 – 31 Oct 2015 Supplier relationship programme
- 1 Sept 2015 New framework available

Approx. Mar/April 2014 approval to award a cost-framework

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#### **Consulted:**

Mary Angell, Cabinet Member for Children and Families; Denise Le Gal, Cabinet Member for Business Services; Mrs Linda Kemeny Cabinet Member for Schools and Learning; Mrs Kay Hammond, formerly Cabinet Member for Community Safety; Mr Michael Gosling, formerly Cabinet Member for Adult Social Care and Health.

#### **Annexes:**

Annex 1: Independent Specialist College Breakdown (part 2 report)

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