

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

2212

Author:

Michael Wilsher

Department:

Children and Families

Contact:

Michael Wilsher

(Job Title: Inclusion Officer, Email: michael.wilsher@nottinghamcity.gov.uk, Phone: 0115 87 64626)

Subject:

Fair Access Panel Delegation

Total Value:

Nil (Type: Nil)

Decision Being Taken:

To grant dispensation from Contract Procedure Rule 5.1.2, in accordance with Financial Regulation 3.29, to continue the arrangements with Nottingham City Secondary Education Partnership (NCSEP) to Chair and arrange the Secondary Fair Access Panel Meetings and ensure the placement of pupils with appropriate support, as part of the Fair Access Protocol.

To note that this will enable continuity of this statutory service until March 2016 whilst the options are reviewed, and also ensure that a formal agreement is put in place which protects the Council's interests.

To note that funding of £0.190m to NCSEP for the Secondary Fair Access Panel will be paid and was approved as part of the 2015/16 budget setting process at Executive Board on 17 March 2015.

Reasons for the Decision(s)

Paragraphs 3.8-3.15 of the School Admission Code impose a statutory duty on the Local Authority to have a Fair Access Protocol in place which the majority of schools agree with. The Fair Access Protocol has been well established in the City for over 5 years. The protocol is to ensure that access to education is secured effectively and quickly for pupils who have no school , and that all schools within Nottingham City admits there fair share of the most vulnerable children, including those with challenging behaviour. Through the Schools Forum, £190,000 is allocated to funding and supporting the placement and integration of pupils considered through Fair Access. As part of an initial trial in September 2012, some of the management of aspects of the protocol were delegated to NCSEP, specifically the management/chairing of the panel meeting and placement of pupils considered under the secondary fair access protocol, including transferring the allocated funding .

NCSEP have been working with the Local Authority since this time to improve performance, establish systems with processes and support the placement of pupils. A review of the Fair Access Protocol and the functions carried out by NCSEP was carried out by the Commissioning Team in April 2015 including consultation with partners, parents and other parties involved. This review, including legal advice, recommended that formal agreements and monitoring were implemented and a Service Specification has been created and agreed by all parties to strengthen the commissioning arrangement ensuring that there is transparency, consistency and clarity for all parties.

Although the financial year 2015/2016 has begun, this agreement will be implemented for this period and end in March 2016 in order to maintain continuity of service whilst a full commissioning project is completed and any Local reviews or changes to legislation are considered.

Other Options Considered:

As part of the Commissioning Teams review the following recommendations were made:

- 1) Retain and formalise the current arrangements through a service level agreement - NCSEP managing the Fair Access Panel Meetings and placement of pupils on behalf of Nottingham City Council.
- 2) The responsibility of managing the Fair Access Panel Meetings and placement of pupils returns to the local authority. Investigate if TUPE consideration is relevant or required.
- 3) Look to commission a new provider to deliver the management of Fair Access Panel Meetings and the placement of pupils, this option would require a procurement process.

For the 2015/2016 financial year it was considered vital to maintain consistency with NCSEP whilst the other recommendations were explored.

Background Papers:

Fair Access Protocol
 Fair Access Service Specification
 Fair Access Protocol Review

Unpublished background papers:

FAP Service Specification Sept 15 v4.0.docx, FAP Review April 2015 v2.docx, SECONDARY Fair Access Protocol (NEW Sept 2012).pdf

Published Works:

Affected Wards:	Citywide
Colleague / Councillor Interests:	
Dispensation from Financial Regulations:	Yes
Consultations:	Those not consulted are not directly affected by the decision.
Crime and Disorder Implications:	<p>Nottingham City Council have a statutory duty to ensure we have a Fair Access Protocol to quickly place pupils out of education and ensure an equitable distribution of vulnerable pupils wanting to transfer between schools. A high percentage of this cohort are eligible for free school meals and/or have special educational needs. The majority of these pupils may have behavioural, emotional and social difficulties.</p> <p>If there is no formal means of education provision in place for this vulnerable group of young people the risks relating to safeguarding, crime and disorder and poor outcomes will inevitably increase.</p>
Equality:	EIA not required. Reasons: Request for approval for funding to be transferred.
Social Value Considerations:	N/A
Decision Type:	Portfolio Holder
Subject to Call In:	Yes
Call In Expiry date:	26/10/2015
Advice Sought:	Legal, Finance, Procurement
Legal Advice:	This report highlights that legal advice has been taken already in relation to the Fair Access Panel and it is advisable that on-going legal advice is sought in relation to the commercial law, employment law, education law and procurement issues raised as this matter develops. Advice provided by Jonathan Ludford-Thomas (Senior Solicitor) on 28/08/2015.

Finance Advice:

This decision requires dispensation from financial regulations as the commissioning of NCSEP to continue to chair/arrange Secondary fair access meetings and pupil placements until 31st March 2016 is proposed without a full procurement process having taken place.

The value of the decision is nil as the £190,000 Dedicated Schools Grant funded Secondary Fair Access budget has already gained approval in the School Budget report presented to the Executive Board on 17 March 2015. Any proposal to fund NCSEP at a level higher than the £190,000 budget would require additional approval. Advice provided by Kathryn Mair Stevenson (Finance Analyst) on 04/09/2015.

Procurement Advice:

The Procurement Team supports the request for dispensation from financial regulation CPR5.1.2 to enable award of a contract to NSCEP (Legal Entity: Bluecoat Academy) to provide the Fair Access Panel service for the remainder of the financial year 2015-16.

This will enable continuity of this statutory service whilst the options are reviewed, and also ensure that a formal agreement is put in place which protects the Council's interests for this period.

Following review, if the decision is to externally commission the service going forwards, this should be subject to a full competitive tender process in accordance with Contract Procedure Rules. This will ensure compliance and value for money in future years.

Advice provided by Dawn Cafferty (Procurement Category Manager) on 01/09/2015.

Signatures

Sam Webster (Portfolio Holder for Schools)
SIGNED and Dated: 19/10/2015
Alison Michalska (Corporate Director for Children and Adults)
SIGNED and Dated: 08/10/2015
Theresa Channell (Head of Corporate and Strategic Finance) - Dispensation from Financial Regulations
SIGNED and Dated: 05/10/2015
Chief Financial Officer's Comments: