

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	2608
Author:	Lisa Lopez
Department:	Children and Families
Contact:	Lisa Lopez (Job Title: Commissioning Manager, Email: lisa.lopez@nottinghamcity.gov.uk, Phone: 01158762746)
Subject:	Approval to spend Department for Education Special Educational Needs and Disabilities reforms grants (Part 3, Children & Families Act 2014)
Total Value:	£705,075 (Type: Revenue)
Decision Being Taken:	<ol style="list-style-type: none">1. To approve the spend of Department for Education (DfE) Special Education Needs and disabilities (SEND) reform grants, as detailed in exempt Appendix 1.2. To grant dispensation from Contract Procedure Rule 5.1.2, in accordance with Financial Regulation 3.29, to directly award a 1 year contract for 2017/18 for the Key Worker Service, as detailed in exempt Appendix. 1.3. To delegate authority to the Head of Contracting and Procurement to sign the contract.

Reasons for the Decision(s)

Activity to date to comply with the SEND reforms has been funded by an initial £410,000 SEND reform grant allocation for 2014/15 which was approved in DD ref: 1587. Further grants have been made and this proposal seeks approval to use these to continue current activity to March 2018 (end of the implementation period). No further grants are anticipated.

Activity will support the new OfSTED/CQC joint inspection process that will take place anytime from May 2016. Appendix 1 shows a breakdown of the Local Authority's legal duties and a breakdown of the activity and associated costings to meet the reforms.

The posts listed in Appendix 1 will also be able to support resources identified within Adult Social Care and Nottingham CCG, to take forward the Whole Life Disability programme. This programme aims to reduce duplication across education, health and social care, for Children's and Adult services, improve co-production with citizens and identify efficiencies through fourteen workstreams (see Appendix 2).

Activity for both these programmes of change will explore the development of integrated commissioning arrangements and contracts, pooled budgets and effective partnership working with the Clinical Commissioning Group and other regional local authorities. It will seek to achieve value for money and efficiencies in the new system from the improved delivery of services (joint commissioning, co-location and more efficient processes) and to inform the development of an appropriately skilled and robust multi-agency/integrated workforce to support the unmet needs of this cohort.

Other Options Considered:

Keyworker Service Direct Award:

Do nothing: This option was rejected as this would mean that the delivery of the current Key Worker Service could not continue. The Key Worker service provides essential support to children and young people with special educational needs who have continuing care or additional health needs in line with the Children and Families Act 2014 .

Re-procure the service immediately for a new contract to commence in April 2017: The proposed short term extension will allow essential activity to continue while work to develop and commission a new integrated information advice and support service for children with special educational needs and disabilities is completed. It is intended to tender the new service during 2017/18, for a new contract to commence April 2018. Going out to tender immediately will not allow time to complete this work and service improvements and efficiencies will not be achieved.

Background Papers:

Published Works:

SEND: supporting local and national accountability

Affected Wards:

Citywide

Colleague / Councillor Interests:

Any Information Exempt from publication: Yes

Dispensation from Financial Regulations: Yes

Exempt Information:

Description of what is exempt: Agreed activity for implementing the SEND Reforms under Part Three, Children & Families Act 2014 containing financial information.

An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972

3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The public interest in maintaining the exemption outweighs the public interest in disclosing because it would prejudice funding negotiations.

Documents exempt from publication:

DDM_Appendix 1_SEND reforms_2016_18_v3.doc, DDM_Appendix 2_WLD_Draft Objectives & Workstreams_v1.docx

Consultations:

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

There is evidence to suggest that there is a correlation between some forms of special educational needs (particularly relating to behaviours) and young offenders - the reforms aim to support these individuals. There is also evidence to show that young people who are participating in education, training or employment are less likely to commit crime.

Equality:

Please login to the system to view the EIA document: SEND Reforms_2016_8_31_EIA_v2.doc

Relates to staffing:

Yes

Decision Type:

Portfolio Holder

Subject to Call In:

Yes

Call In Expiry date:

06/10/2016

Advice Sought:

Legal, Finance, Procurement, Human Resources, Equality and Diversity

Legal Advice:

The Special Educational Needs & Disability ("SEND") grant allocations referred to in this report have been made by the Secretary of State in exercise of powers, including those conferred by section 31 of the Local Government Act 2003. Section 31 of the Local Government Act 2003 gives a Minister of the Crown the power to pay a grant to a local authority in England towards expenditure incurred, or to be incurred, by the authority. Section 31 of the Local Government Act 2003 also gives a Minister of the Crown the power to determine the amount of such a grant, the manner of its payment and any conditions that go with the grant.

Therefore, it is advisable that Nottingham City Council complies with any conditions attached to the grants in spending the grants.

It is also advisable that further advice is taken, as appropriate, from Nottingham City Council's procurement officers and Legal Services around the procurement of any service using the grants and any resultant commercial agreements.

Lastly, under section 7 of the Local Government & Housing Act 1989 any appointment to posts in the authority created with the grants should be made on merit. Advice provided by Jonathan Ludford-Thomas (Senior Solicitor) on 23/03/2015. Advice provided by Jonathan Ludford-Thomas (Senior Solicitor) on 17/08/2016.

Finance Advice:

The Children & Families Act SEND reforms implementation are creating significant additional costs during the three-year transition period, as has been recognised by central government in the provision of additional grant funding.

Activity to date has been funded by an initial SEND reform grant allocation for 2014/15 of £0.410m (DDM 1587). This DDM requests approval to spend £0.705m arising from 4 further non-ring-fenced Special Educational Needs and Disability (SEND) grant allocations:

- 1. £0.272m 2014-15 SEND Implementation Grant (New Burdens)**
- 2. £0.187m 2015-16 SEND Implementation Grant (New Burdens)**
- 3. £0.031m 2014-15 SEND Preparation for Employment Grant**
- 4. £0.213m 2016-17 SEND Implementation Grant**

A detailed plan for expenditure from the grant funding is included in Appendix 1. It includes recruitment to temporary vacancies and time-limited commissioned services to support young people and their families through the EHCP process as well as one-off costs of implementing the reforms such as marketing, communications and engagement activity. This plan covers activity to the end of the implementation period (March 2018) and assumes no further grant allocations. There is a small project contingency to cover unforeseen pressures which will be prioritised by the SEND reforms Project Board.

As stated in the Procurement advice, this decision requests dispensation from Section 5.1.2 of Nottingham City Council's Contract Procedure rules in accordance with Section 3.29 of the Financial Regulations, to directly award a 1 year contract for 2017/18 for the Key Worker Service. During this period, work will be undertaken to commission this activity as part of a new integrated service from April 2018.

More broadly, a significant part of the planned activity will involve the development of integrated commissioning arrangements and contracts and effective partnership working to ensure value for money in the delivery of services for children with SEN and disabilities.

Advice provided by Kathryn Mair Stevenson (Finance Analyst) on 26/08/2016.

Procurement Advice:

The Decision to grant dispensation from Section 5.1.2 of Nottingham City Council's Contract Procedure rules in accordance with Section 3.29 of the Financial Regulations, to directly award a 1 year contract for 2017/18 for the Key Worker Service as detailed in Appendix 1 is supported by Procurement. This award will allow for work to develop and commission a new integrated information advice and support service for children with special educational needs and disabilities. It is intended to tender the new service during 2017/18, for a new contract to commence April 2018. The Procurement Team should be involved in managing this procurement. Advice provided by Nicola Harrison (Procurement Lead Officer) on 26/08/2016.

HR Advice:

The proposal is to create a number of new temporary positions subject to the funding. The new posts will be subject to the job evaluation process which will need to be completed prior to any recruitment exercise.

Management will need to ensure that recruitment is conducted through the appropriate processes, including Project People. Management may also want to consider recruiting to these posts on a secondment basis.

As the post is initially temporary, an appropriate exit strategy must be in place in order to terminate the contract in line with NCC guidance in the result that the post cannot be made permanent at the end of the fixed term period. Management will need to ensure appropriate timelines are in place to notify the affected employee and give appropriate notice.

Management will also need to be aware of potential costs in any exit arrangement such as redundancy compensation will need to be budgeted for.

There will also need to be a support and development plan for the new post holder once appointed.
Advice provided by Leanne Sharp (Service Redesign Consultant) on 18/08/2016.

Equality and Diversity Advice:

The proposal should assist the Authority meet its Public Sector Equality Duty to ensure equality of opportunity, in this case for young people with needs. It's important that all activity is monitored to ensure efficacy. Advice provided by Adisa Djan (Equalities and Diversity Consultant) on 01/09/2016.

Signatures

Sam Webster (PH for Education, Employment and Skills)
SIGNED and Dated: 29/09/2016
Alison Michalska (Corporate Director for Children and Adults)
SIGNED and Dated: 16/09/2016
Theresa Channell (Head of Corporate and Strategic Finance) - Dispensation from Financial Regulations
SIGNED and Dated: 12/09/2016
Chief Finance Officer's Comments: