

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:

3310

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Department:

Strategy and Resources

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Subject:

SEND Dispute Resolution, Mediation Advice and Mediation services

Total Value:

£80,000 for Nottingham City Council's use of a regional framework (framework value £1,230,000 total) (Type: Revenue)

Decision Being Taken:

- Approve the expenditure of up to £80,000 for Nottingham City Council's use of the regional contract, over the entirety of the contract term of 4 years, for the provision of the SEND Disagreement Resolution, Mediation Advice and Mediation services.
- Approve the procurement of the SEND Disagreement Resolution, Mediation Advice and Mediation services, jointly with the 8 other local authorities in the East Midlands region, through an appropriate procurement process to establish a regional contract. The approved contract is proposed to commence on 1st May 2019 for a 4 year period.
- Delegate authority to the Head of Service for Contracting and Procurement to approve the outcome of the procurement processes and award the contract to the provider deemed most suitable to provide these services.
- Delegate authority to the Provider Performance and Development Manager to sign the final contract.

**Reasons for the Decision(s)**

**1. To support the fulfilment of statutory duties towards children/young people with special educational needs and/or disabilities (SEND) and their parent/carers. The Children and Families Act (2014) and the associated SEN Code of Practice sets out statutory duties for local authorities to provide disagreement resolution to all families of children/young people with SEND, who disagree with any aspect of their education, health and/or social care provision; and to provide mediation advice and mediation services to families of children/young people with SEND who have an Education, Health and Care (EHC) assessment and/or plan, and who disagree with any aspect of it.**

**2. To provide a consistent Disagreement Resolution, Mediation Advice and Mediation service for children/young people with SEND and their parent/carers, across the East Midlands region (Nottingham, Nottinghamshire, Lincolnshire, Derby City, Derbyshire, Leicester City, Leicestershire, Northamptonshire and Rutland). There are currently three separate services - one providing mediation advice, and issuing the certificates which families require in order to be able to proceed to First Tier Tribunal, and two providers who each offer both disagreement resolution and mediation services. The mediation advice provider is not allowed to influence families regarding choice of provider, or highlight the differences between them. Families therefore choose a provider for DRS or mediation based on very limited information, and may be frustrated with their choice if they do not get the outcome they sought. Having a single provider for all three services reduces the need for the family to repeat details of their situation, which avoids contributing to their frustration at a difficult time. A single provider supports ease of access for both citizens and professionals, and avoids confusion regarding which service to engage with. Having consistency across the region benefits families whose children may be educated in a different local authority area - this is more common for children/young people with SEND, especially for those attending special schools.**

**3. To maximise efficiency and value for money in the services we commission. We will do this by offering a single contract for Disagreement Resolution, Mediation Advice and Mediation, across the East Midlands local authorities. This will create economies of scale and reduce management costs**

**by having a single service, which will make the contract more appealing to potential bidders. Improving citizen's experience of SEND Disagreement Resolution and Mediation services is likely to result in more families having their needs met without recourse to Tribunal, benefitting both the family and the local authority. The contract will be paid on usage only, and will be robustly performance-managed to ensure that the needs of citizens are met without recourse to Tribunal wherever possible.**

**Nottingham City Council will lead the procurement and contract management. Procurement and contract management will be cost neutral to the local authority, as the other eight local authorities who are party to the contract each will pay contributions to the procurement and contract management costs.**

**Other Options Considered:**

1. Tender the service solely as Nottingham City Council and do not undertake a joint process. The economies of scale that present themselves through a joint procurement process enable the Council to achieve best value for money, and create a robust contract offer for the successful provider. It's unlikely that the same value for money could be achieved by commissioning a separate service. Therefore this option has been rejected.

2. Do nothing - allow contracts to end and not re-commission services. All local authorities have a statutory obligation under the Children and Families Act (2014) and the associated SEN Code of Practice, to offer disagreement resolution to all families who disagree with any aspect of their education, health and/or social care provision; and to provide mediation advice and mediation services to families who disagree with any aspect of their Education, Health and Care (EHC) assessment and/or plan. Without this contract it's likely that the local authority would be reliant on spot-purchasing the services at an increased cost. This is likely to result in a more expensive, less reliable service, and an increase in cases progressing to tribunal, further increasing the costs. Therefore this option has been rejected.

**Background Papers:** None

**Published Works:** The Children and Families Act (2014)  
SEND Code of Practice 2015 Professional Standards for Mediators 2018 (Civil Mediation Council and College of Mediators)

**Affected Wards:** Citywide

**Colleague / Councillor Interests:** None

**Consultations:**

Date: 01/10/2018

Other: Rainbow Parent Carer Forum Nottingham and Nottinghamshire Special Educational Needs and/or Disabilities Information, Advice and Support Service (SEND IASS) Other Parent Carer Forums and SEND IASSs across the East Midlands region

Individual engagement is underway with parents/carers from Rainbow Parent Carer Forum, and from the SEND Information, Advice and Support Service (IASS) who have previously accessed mediation services. The other local authorities who are party to the contract are also carrying out engagement activities with their local parent carer forums and IASSs. Feedback from the parents/carers will be used to inform specification development. These parent/carers from across the region will be invited to take part in scoring relevant sections of the bids for the contract, and will therefore take an active role in deciding the outcome of the procurement process.

Those not consulted are not directly affected by the decision.

**Crime and Disorder Implications:**

**N/A**

**Equality:**

**Please login to the system to view the EIA document: DRS Mediation EIA 2018 - FINAL.docx**

**Decision Type:**

**Portfolio Holder**

**Subject to Call In:**

**Yes**

**Call In Expiry date:**

**06/11/2018**

**Advice Sought:**

**Legal, Finance, Procurement, Equality and Diversity**

**Legal Advice:**

**The proposals in this report raise no significant legal services and are supported.**

**The recommendations propose to undertake a compliant procurement process to establish a regional framework agreement accessible by the Council and other Local Authorities for the receipt of consistent and efficient SEND services.**

**Legal services colleagues are working the client department alongside procurement colleagues to prepare and implement appropriate contractual documentation for delivery of the service. Advice provided by Dionne Claire Screamon (Solicitor) on 08/10/2018.**

**Finance Advice:**

**Under the Childrens and Families Act (2014), authorities have a statutory duty to provide disagreement resolution, mediation advice and services to all children/young people with special educational needs and/or disabilities.**

**Currently, three separate providers deliver these services through activity-based contracts. Costs are circa £0.019m per year.**

**This proposal requests approval for NCC to collaborate with eight authorities across the East Midlands region to procure a single contract. NCC will act as lead provider, although partners will share any associated costs ensuring the process is cost neutral to the authority.**

**The proposal requests funding of £0.020m per year (£0.080m for the contract term of 4 years). The contract is activity based and will be met from the existing budget within the Special Needs Team.**

**This approach aims to streamline the service so parents/carers receive a consistent and more effective service. In addition, this proposal will prevent on spot purchasing at higher rates and support the achievement of longer-term value for money by creating economies of scale in terms of management costs. This has yet to be quantified; therefore, it is recommended robust performance management be implemented to identify risks and rewards to the partnership and individual authorities.**

**The contract is due to commence on 01 May 2019. Any further extensions to the contract would require a further DDM Advice provided by Christine Green (Senior Commercial Business Partner) on 23/10/2018.**

**Equality and Diversity Advice:**

**The provision of a service enables families to have an opportunity to input into decsion making. The opportunity also for parents and citizens to be engaged in the selection process of an appropriate provider provide real equality of opportunity and meets the Public Sector Equality Duty re: civic duties and full inclusion. Advice provided by Adisa Djan (Equalities and Diversity Consultant) on 03/10/2018.**

**Procurement Advice:**

**The Decision to approve the procurement of the SEND Disagreement Resolution, Mediation Advice and Mediation services, jointly with the 8 other local authorities in the East Midlands region, is supported by Procurement who are engaged with the project. The procurement process will be led by Nottingham City Council's Procurement Team in accordance with procurement legislation.**

**Advice provided by Nicola Harrison (Procurement Lead Officer) on 02/10/2018.**

**Signatures**

**Neghat Khan (Portfolio Holder for Education & Skills)**

**SIGNED and Dated: 30/10/2018**

**Alison Michalska (Corporate Director for Children and Adults)**

**SIGNED and Dated: 23/10/2018**