

Forward Plan reference number: FP/539/10/22

Report title: Re-Procurement of Framework for Individual Packages of Education Support	
Report to: Cabinet	
Report author: Councillor Tony Ball, Cabinet Member for Education Excellence, Lifelong Learning and Employability	
Date: 17 January 2023	For: Decision
Enquiries to: Ralph Holloway Head of SEND Strategy & Innovation and Kate Martin SEND Provision Lead (Contracting & Commissioning)	
County Divisions affected: All Essex	

1. Everyone's Essex

- 1.1 'Everyone's Essex' sets out four strategic aims and 20 commitments. The key area of Family includes a commitment to improve the Outcomes for the most vulnerable and disadvantaged groups, including Children in Care, Care Leavers, Children with SEND and children from BAME communities, by working with children, young people, and partners across the system.
- 1.2 Consistent with achieving these commitments, this paper sets out a proposal to procure a new framework for Individual Packages of Education Support (IPES) that support children and young people, with and without Education, Health, and Care Plans (EHCPs) who by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education. The current arrangements expire on 31 March 2023.

2. Recommendations

- 2.1 To undertake a single stage, open, competitive tender process to procure a multi supplier framework for individual packages of education support (IPES) to commence on the 1 April 2023:
 - for 18 months with an option to extend for two six-month periods (a maximum of 12 months);
 - with the option to re-open on the grounds set out at paragraph 3.13 of this report;
 - to be accessed by the Council and any Essex School; and
 - using evaluation criteria based on a price:quality split of 60:40 with 10% of the quality score assessing social value.
- 2.2 Agree that the Director, Education is authorised to approve the detailed evaluation model for the procurement.

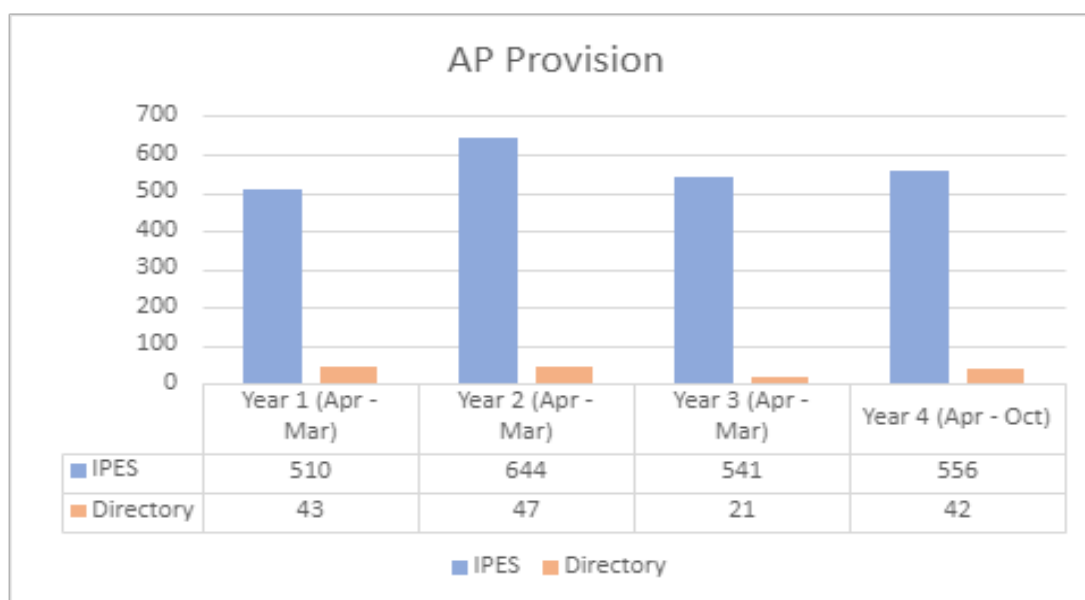
- 2.3 Agree that the Cabinet Member for Education Excellence, Lifelong Learning and Employability is authorised to award contracts to the successful bidders.
- 2.4 Agree that the Cabinet Member for Education Excellence, Lifelong Learning and Employability is authorised to make decisions about the re-opening of the Framework in accordance with its terms.

3. Background and Proposal

- 3.1 Essex County Council (the Council) has a statutory duty under the Education Act 1996 to secure alternative education provision for children and young people living in Essex who have been permanently excluded or who, due to illness or other reasons, are unable to receive suitable education. In addition, schools are responsible for arranging suitable full-time education for their pupils who are excluded for a fixed period. Schools may also commission additional education support for pupils if they consider additional support is needed for any reason.
- 3.2 This means that there are two tiers of commissioning:
 - The Council purchases services to meet its statutory responsibility; and
 - Many schools in Essex also buy these services to support children who are unable to attend school including where a child is ill or has been excluded.
- 3.3 In May 2018, Cabinet approved the procurement of the Individual Packages of Educational Support (IPES) framework (the IPES Framework) to meet the Council's statutory duty. The IPES Framework has a four-year term which commenced in April 2019, and is due to expire on the 31 March 2023. There is no contractual right to extend the IPES Framework.
- 3.4 The IPES Framework currently has 27 suppliers providing county wide support for 628 pupils and is used by three teams in the Council's Education Directorate: Special Educational Needs and Disabilities (SEND), Education Access and Virtual School. The IPES Framework also contains provision for Schools to source services through the IPES Framework subject to entering into an access agreement with the Council. However, to date schools have not used the IPES Framework.
- 3.5 The IPES Framework is split into 4 lots:
 - Lot 1- Tuition Services
 - Lot 2- Vocational Services
 - Lot 3- Virtual Learning Services
 - Lot 4- Early Intervention Re-Integration Services.
- 3.6 The IPES Framework was reopened in accordance with its terms in 2021 to allow new providers to join and to support an increase in demand for services caused by the Council's West Essex Pupil Referral Unit being placed into special measures in 2019/20, reducing the Council's capacity in this type of setting by

103 places.

- 3.7 Demand for these services remains high and continues to increase (as shown in the graph below). Referrals are made through the Framework, and the suppliers on the Directory are used when the Framework are full or unable to meet the need; the paper seeks to combine the routes, delivering an increased pool of compliantly contracted suppliers.



- 3.8 Demand for these services is driven by the current lack of Special School places in Essex, and an increase in the number of pupils who suffer with anxiety-based school avoidance, which has increased since the Covid 19 pandemic. Reliance on the independent alternative provision market to meet the Council's statutory duty and the need for increasingly creative packages of tuition, vocational and therapeutic learning to meet the personalised nature of the needs of these pupils will remain high until more school places are created and strategies are implemented in schools for earlier intervention.
- 3.9 An intensive programme of building and development, (managed by the Council and the Essex School Forum), has been in place for several years to provide Essex with additional school places for children with SEND. The first new special school opened in 2021 and a further three are due to be opened by 2024. In addition, further work to review the capacity and future modelling of the Council's Pupil Referral Units (PRUs) is underway. It is anticipated that both strategies will ease the demand for the services purchased via the IPES Framework. However, at the time of writing, there are risks of delay associated with both projects due to the impact on cost and the availability of materials and labour caused by current economic pressures faced in the UK.

- 3.10 The existing IPES Framework expires on 31 March 2023 and new contractual arrangements need to be put in place to provide these services. Market knowledge shows that there are new providers interested in joining a framework for these services.
- 3.11 Procuring a new framework for a period of 18 months would allow existing and new suppliers to join, increasing capacity and reducing the need for the Council to rely on spot purchasing services from approved suppliers when the Framework cannot resource the demand. It will also allow the Council time to work with the market and schools to develop a longer-term solution for delivery of these services and the necessary changes to internal processes and systems.

Procurement of a new Framework

- 3.12 It is proposed that the Council procures a new multi-supplier framework for 18 months with an option to extend for two six-month periods for the four lots set out at paragraph 3.5 under an open, single stage competitive process. Tenders will be evaluated on the following basis:
- a) 60% price – bidders will be required to set their maximum price and any subsequent bids for work under the framework must be priced at or below this figure;
 - b) 30% quality - a minimum quality threshold will be set to ensure that successful providers meet the Council's quality standard for these services;
 - c) 10% social value.
- 3.13 It is recommended that the new Framework includes an option for the Council to re-open the framework where there is sufficient interest from new providers or there are sufficient grounds arising from a review of the Framework to merit re-opening. This will enable new providers to join the Framework ensuring that rising demand for the services can be met via the new Framework and give existing providers an opportunity to submit new pricing should they choose to do so. This is permitted under the light touch procurement regime provided that the process is equal and transparent
- 3.14 Individual requirements for pupils will be met by holding a mini-competition process inviting all providers on the Framework for the particular lot. Each bid will be evaluated in line with the criteria detailed within the call-off specification which will be based on location, needs and price.
- 3.15 It is estimated that if demand continues at the current level, the value of the Council's spend under the new Framework will be £11.5m for the 18-month term. Since the total spend under the IPES Framework to date has been incurred solely by the Council, the projected value of the services to be delivered under the new Framework has been estimated on the current demand and spend by the Council.

4 Links to our Strategic Ambitions

4.1 This report links to the following aims in the Essex Vision:

- Enjoy life into old age
- Provide an equal foundation for every child
- Strengthen communities through participation

4.2 The recommendations in this report do not have any direct environmental or climate change implications.

4.3 This report links to the following strategic priorities in the emerging Organisational Strategy 'Everyone's Essex':

- A strong, inclusive, and sustainable economy
- A high-quality environment
- Health wellbeing and independence for all ages
- A good place for children and families to grow

5 Options

5.1 Option1 - Let the IPES Framework expire and spot purchase from the market

In the absence of a framework, the Council would have to move to a spot purchase model.

Benefits.

- This option allows the Council to benefit from increased flexibility in making provision and meeting its statutory duty.

Risks

- It exposes the Council to the risks of uncontrolled costs, a lack of contractual protections and non-compliance with the Public Contract Regulations 2015.

5.2 Option 2 - Reprocure a new Framework (Recommended Option)

Benefits

- A new framework would provide the checks and balances to ensure a contracted pool of suppliers and help control the costs of provision for the Council through increased competition.
- Increases the capacity of the Framework, allowing the providers from the Directory to join.
- Increases the control of costs by removing the dual route to market for the Council.
- Allows officers time to fully explore the creation of a sustainable, innovative and flexible solution that will meet the continued demand for

these services including any increased flexibility for light touch services arising from the implementation of the new procurement bill in 2023.

Risks

- Control of costs through capping of rates could:
 - a) reduce the appetite in the market to join a new framework risking supply and potentially recreating the dual pathways for provision that currently exist, continuing the risk of challenge and spend for the Council; and
 - b) increase spend for the Council as providers increase their base rates.
- Administration and resource will be required to reopen the Framework if required and to manage the individual placements from an increased pool of providers.

5.3 Option 3 - Reopen and extend the IPES Framework for a period of 18 months.

Risks

- There is no contractual right for the Council to extend the IPES Framework and therefore, a risk that any extension would not comply with the Public Contract Regulations 2015.
- The administration and resource required would be the same as procuring a new framework.

6 Issues for consideration

6.1 Financial implications

6.1.1 The forecast cost of Individual packages of Education Support for excluded pupils or pupils with additional needs that are unable to attend school for the 18 months commencing 1st April 2023 through to the end of September 2024 is as per the following table.

Financial Year	Forecast Cost £000
2023/24	£7,750
2024/25 (April – Sept: 6 months)	£3,780
Total	£11,530

6.1.2 The forecast cost includes an increase in demand of 19% in 2023/24 and a further 15% in 2024/25 with inflations assumptions in both years in line with CPI (Consumer Price Index).

6.1.3 The packages of education support will be funded through the High Needs Block within the Dedicated Schools Grant with the forecast costs reflected in the draft Medium Term Resources Strategy for 2023/24 and 2024/25.

6.1.4 Due to current demand increases there is a risk that price and volume assumptions are less than market expectations leading to costs of more than £11.53m over the 18-month framework period. Subsequent cost increases arising from this will be met from the High Needs Block element of the Dedicated Schools Grant.

6.1.5 The High Needs Block is currently forecasting a surplus in 2022/23 of £11.5m and is forecast to remain in surplus to the end of 2024/25.

6.2 Legal implications

6.2.1 The Council has a statutory obligation to provide these services.

6.2.2 The Council is a contracting authority for the purposes of the Public Contract Regulations 2015 (the Regulations). The nature of the services fall under Schedule 3 (Social and Other Specific Services) of the Regulations and are deemed to be “light touch” services.

6.2.3 The value of the proposed framework is above the financial threshold for light touch services (currently set at £663 540 inclusive of VAT (Value Added Tax)). The procurement of these services must be undertaken in accordance with the light touch regime as set out in regulations 74 to 76 of the Regulations.

6.2.4 The Public Services (Social Value) Act 2012 replaces a requirement on contracting authorities to consider, when procuring services, how the economic, environmental, and social wellbeing of the local area may be improved and how this can be delivered through the procurement. Contracts should be awarded based on the most economically advantageous tender and qualitative, environmental and/or social aspects should be linked to the subject matter of the contract.

7 Equality and Diversity Considerations

7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3 The Equalities Comprehensive Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

8 List of Appendices

Equalities Comprehensive Impact Assessment

9 List of Background papers

None