

WESTMINSTER CITY COUNCIL

STATEMENT OF DECISION

**SUBJECT: ALTERNATIVE PROVISION AND BEHAVIOUR OUTREACH
CONTRACT EXTENSION**

Notice is hereby given that the Cabinet Member for Young People, Learning and Leisure, has made the following executive decision on the above mentioned subject for the reasons set out below.

(The key decision is seeking approval to invoke the permissible three-year extension for Alternative Education provision with Ormiston Academy Trust (OAT) from August 2022 to August 2025, and a one-year extension for Behaviour Outreach service with OAT from August 2022 to August 2023.)

Summary of Decision

2. Recommendations

To approve the three-year permissible contract extension for the delivery of AP education from Beachcroft AP academy by OAT. The extension period runs from September 2022 through to August 2025.

To approve the one-year permissible contract extension for the delivery of behaviour outreach services by OAT. Behaviour outreach services include the delivery of in-school interventions for Primary Schools, and offsite interventions for Secondary pupils, delivered from the Westminster Education Centre. The extension period runs from September 2022 to August 2023.

As previously explored, the options available to us for the Alternative Provision contract are limited, due to the way that education provision is funded. Alternate options for both areas of provision have been explored and are outlined further below.

Option 1: Do nothing. Allow the contracts to expire and have no formalised commissioning arrangements from September 2022 – not recommended

Prior to the current contract with OAT, our former AP and behaviour outreach service provider had SLA with the local authority. The SLA did not facilitate the level of oversight and scrutiny that the current contract provides. Allowing the contract to expire would create unnecessary risk and any alternate arrangement would be less formal and less favourable than extending the current contracts.

The local authority would still be required by the DfE to provide top-up funding; however, we would have no contractual mechanism to oversee this spend.

Option 2: Undertake a competitive procurement exercise to award new contracts - not recommended

As explored earlier, competitive procurement is not appropriate for the AP contract, given the way schools are funded and precedents set elsewhere.

The timelines for a competitive procurement exercise for the behaviour outreach contract, without utilising the entirety of the extension, do not align with the start of the

school year. As such, there would be a risk of change in provider part-way through a school year. This would likely cause disruption to both learners and schools.

We are currently undertaking a comprehensive review of our behaviour outreach offer, to inform our commissioning strategy moving forwards. Extending the contract for another year will allow us to complete this work and develop a robust approach to the delivery of these services from September 2023 onwards.

Option 3: Extend the contract with OAT for three-years for AP top-up funding and a one-year extension for the delivery of behaviour outreach - recommended

This approach is being recommended as it is in line with DfE guidance from a procurement perspective as well as supporting the SEND Green paper recommendations on ensuring sustainability for AP institutions.

This approach will ensure the ongoing delivery of a highly valued local resource, ensuring that vulnerable young people have access to established local provision.

The extension of the behaviour outreach contract for a full year will provide time for officers to complete a thorough review of behaviour outreach models in order to make recommendations on a long-term commissioning strategy.

Reasons for Decision

The Alternative Provision top up funding

The local authority has a statutory duty to arrange and fund full-time education provision for children and young people who are permanently excluded from school and to fund education provision for children and young people who receive a fixed term exclusion (from the sixth day). This contract will enable us to fulfil this statutory duty ensuring that sufficient top-up funding is available to meet the needs of young people with complex needs who are unable to attend their mainstream setting.

Given the way in which AP is funded, we have limited discretion on how we allocate funding. Whilst we could theoretically divert top-up funding to a different institution, this would likely be an expensive way of funding statutory places, would require pupils to travel to schools outside their borough and would financially destabilise local provision.

The DfE guidance states that 'the commissioning by local authorities of SEN and AP placements, funded from the high needs block of the DSG, is not regarded as a public service contract for the purposes of the [Public Contracts Regulations 2015](#).' It is therefore their position that we are not required to competitively tender provision of this type.¹

Over the initial 12-month period OAT have demonstrated a commitment to partnership working. During this time, they have improved the timeliness and detail in termly monitoring returns and continued to work with us to explore new funding models with schools to reduce local authority spend on non-statutory provision. Beachcroft Academy is rated as 'good' by Ofsted and both the on-site and outreach offer is highly regarded by schools.

The SEND Green paper (2022) sets out the importance of creating stability within AP settings to ensure providers can develop their AP offer to meet local need. Extending the contract for a three-year period supports this objective, enabling us to work in

¹ High needs funding: 2022 to 2023 operational guidance [High needs funding: 2022 to 2023 operational guidance - GOV.UK \(www.gov.uk\)](#)

partnership with OAT and schools on the development of a high quality, sustainable AP offer.

Behaviour outreach

Whilst the majority of the behaviour outreach contract is not statutory, it is an essential component of our local offer, supporting us to fulfil our ambition to improve outcomes for children and young people who are excluded, reduce exclusions further through early intervention and support and improve reintegration rates from alternative provision back into mainstream education. The offer has reached over 400 pupils this school year across Bi-borough, through a combination of individual interventions, group interventions and managed intervention centre placements. All of these interventions are highly valued by schools across the Borough

The behaviour outreach contract does not receive place funding in the same way and therefore we have more freedom to appraise different delivery and funding models. However, we recommend that the current provision is extended for another academic year to allow officers time to complete work that is already underway to explore the most appropriate approach for the delivery of behaviour outreach in the future. This will include recommendations on the best commissioning strategy and will be completed within the next six months.

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