

Report for: Cabinet Member for Children, Schools and Families 18th June 2024

Item number:

Title: Haringey School Improvement and Governor Services

Report authorised by: Ann Graham, Director: Childrens Services

Lead Officer: Caroline Brain, Assistant Director: CYP Commissioning & Programmes

Ward(s) affected: All

Report for Key Decision: Yes

1 Describe the issue under consideration

- 1.1 Haringey School Improvement and Governor Services functions are currently delivered by Haringey Education Partnership (HEP), a non-profit making school improvement company formed in accordance with the School Companies Regulations 2002.
- 1.2 This paper is seeking cabinet approval to proceed to an open tender process in July 2024, following the expiry of the existing contract with HEP on 31st March 2025.
- 1.3 The new contract offer will be for 8 years including option to extend periods at a value of £3,686,107. The tender will invite applications to deliver the councils statutory functions and additional strategic functions in relation to School Improvement and Governor Services.

2 Cabinet Member Introduction

- 2.1 The current service delivers School Improvement related statutory functions on behalf of the Council in accordance with the Education Act 1996.
- 2.2 The recommendation to proceed to competitive tender should be adopted because the service is required to continue to be delivered following the expiry of the current contract on 31st March 2025. Continuation of the service following a competitive tender process will ensure that the Council can continue to meet its statutory duties and deliver its strategic functions.

3 Recommendation

- 3.1 For the cabinet member for Children, Schools and Families to approve the proposal to proceed to open tender for the Council to continue to commission School Improvement and Governor Services to ensure statutory and strategic functions can

be delivered and to ensure compliance with the Public Contract Regulations 2015 and the Council's Contract Standing Order policy.

- 3.2 For the cabinet member for Children, Schools and Families to approve the budget of up to £3,686,107 for a total of 8 years under a 4 plus 2 plus 2 years contractual agreement, commencing from 1st April 2025 until 31st March 2033 in accordance with the budget breakdown in section 7.8 of this report.

4 Reasons for decision

- 4.1 To be compliant with regulation, HEP would need to secure a minimum of 80% from Haringey Council and Haringey Schools. This would meet Public Contract Regulations 2015, specifically Regulation 12 to be exempt from competition criteria.
- 4.2 However, it has been identified that over recent years HEP has expanded its offer and area of operations to encompass schools beyond the Haringey Local Authority area. Whilst this has ensured that the organisation has achieved financial sustainability and was able to retain its non-profit making status which has benefitted the LA and Schools through a diverse and comprehensive offer.
- 4.3 However, the expansion of HEP's business and income stream therefore means that HEP's non- Haringey business equates to more than 20% of their total income and therefore we are require to tender.
- 4.4 HEP's membership is composed of 112 member schools, the proportion of schools are:
- 82 Haringey Schools.
 - 30 Enfield Schools
- 4.5 Haringey member schools currently constitute 73% of HEP's membership, therefore falling below the 80% PCR Regulation 12 threshold when measured by membership.
- 4.6 In addition, in 22/23 HEP's reported income apportionment also fell below the threshold for PCR Regulation 12 compliance, with a maximum of 64% of income coming from in-borough sources:

Income source	Percentage of total income in 22/23
London Borough of Haringey	22%
Haringey Schools Traded Services	34%
Kickstart Grant	8%
Enfield Schools	11%
Non-member Schools	25%

- 4.7 The dilution of Haringey membership below 80%, combined with HEP's increase in non-Haringey income, necessitate the requirement to undertake a competitive procurement tender process.

- 4.8 The service is funded via the Dedicated School Grant: Central School Services Block (CSSB). The CSSB budget has pressures due to a forecast decrease in the allocation of CSSB of 2.5% per annum. The forecast decrease is factored into the proposed budget envelope detailed in section 7 of this report. Due to the forecast decrease in CSSB, no inflationary uplift can be made during the contract period.
- 4.9 The service requires a sustainable long term funding envelope from the Central School Services Block (CSSB) to ensure that the service can continue to deliver local authority statutory and strategic functions for the whole period of a future contract.
- 4.10 In the event of an alternative provider succeeding to win the tender instead of the current provider, HEP would continue to offer and provide traded services to Haringey schools. Schools can decide to commission traded services from a provider of their choosing, hence HEP have been successful in securing the custom of non-Haringey schools.

5 Alternative options considered.

5.1 Option 1: Direct award to the existing provider,

Directly Award a new contract to HEP following the expiry of the existing contract without proceeding with an open competitive tender. Following a rigorous legal and procurement assessment of Public Contract Regulations 2015 and HEP's business model, the conclusion reached was that a direct award to HEP without competition would not be compliant with the PCR's 2015 and this option is therefore not recommended. To directly award a contract to HEP without an open tender opportunity would be in breach of PCR's 2015 and may leave the Council open to challenge from other interested parties.

5.2 Option 2: Insource the service.

Insource the functions that HEP delivers on behalf of the Council. Following an assessment of this option it is not recommended, due to the cost of an in-house model. An in-house model would require the recruitment of a number of school improvement partners and a head of service to deliver the local authority statutory and strategic functions. This would exceed the current contract value of £457,000 per annum. All Council's CSSB allocations are decreasing by 2.5% per annum and therefore the Council would be at risk of a funding shortfall in the longer term. HEP was also set up in partnership with schools who favoured the model of an outsourced service in preference to the previous in-house model. Schools continue to support the outsourced service, through continued membership of HEP.

5.3 Option 3: Proceed to Open Competitive Tender- Recommended option

The option to proceed to open tender to ensure compliance with Public Contract Regulations 2015, for the Council to continue to commission School Improvement and Governor Services to ensure statutory and strategic functions can be delivered and to ensure compliance with the Public Contract Regulations 2015 and the Council's Contract Standing Order policy is the recommended option.

6 Background information

- 6.1 Haringey Education Partnership (HEP) was established in 2018 following Cabinet approval to award the contract for a period of three years until 31st August 2021. The contract was extended for a further 3 years from 1st September 2021 until 31st August 2024 following Cabinet Approval to extend the contract.
- 6.2 The Council entered into the original contract with HEP in 2018 under Regulation 12 of the Public Contract Regulations 2015, which allows entities within public sector to contract directly without the need for competition, provided they meet the criteria stated in the Regulations. The extension to the contract in 2021 was also approved on the basis of Regulation 12 of the Public Contract Regulations 2015. At the time, the contract, and the extension the service met the qualifying criteria of Regulation 12, which enabled the Council to contract directly with the HEP without the need for further competition.
- 6.3 HEP delivers a broad offer of traded services to Haringey Schools, who are members. The Council is a member and also the supervising authority in accordance with the School Company Regulations 2002. HEP also have a number of Enfield Schools on their Board. HEP have gradually extended their business to deliver a range of traded services to a range of non-Haringey schools and this represents a significant proportion of their business activities.
- 6.4 Following an assessment of HEP's business activities, turnover and membership, it has emerged that the service no longer falls within the exemption criteria as determined by Regulation 12 of the Public Contract Regulations (PCR) 2015. This is due to the proportion of business activities delivered to non-Haringey schools and turnover exceeding 20% and the proportion of members of non-Haringey schools exceeding 20%.

7 Contract Value and Services:

- 7.1 The current core contract annual value is £456,791 which will reduce year on year due to the reduction of Central School Services Block funding received from central government as demonstrated in the table in section 7.8 .
- 7.2 The current service has been also commissioned to deliver additional training on behalf of Haringey. The cost for this was £48,825 for 23/24 and was £54,693 for 22/23.
- 7.3 The statutory functions on behalf of the council within the core contract will include:
 - Key Stage 1 moderation and monitoring with training and advice.
 - Key Stage 2 moderation and monitoring
 - the delivery of Standing Advisory Council on Religious Education (SACRE)
 - Local Authority governor appointments
 - Governor training
 - Schools Causing Concern: duties- where Councils have a duty to engage and support schools in accordance with the [Schools Causing Concern Statutory Guidance](#).
 - Support for schools who do not achieve a "Good" or "Outstanding" OFSTED Inspection rating.
 - Supporting the Council to introduce an Interim Executive Board where appropriate.

7.4 The service will also be commissioned to undertake several strategic functions on behalf of the Council, with include:

- Professional contact in relation to school improvement and governor services between the Council and each of its schools.
- Attendance at Ofsted inspections and feedback meetings.
- Data analysis and target setting.
- Advice, guidance, and support for individual school statutory and not statutory performance targets.
- Risk assessment of school performance and intervention.
- Alignment with the Local authority protocol regarding duties in relation to Safeguarding support and advice.
- Ensuring schools have access to high quality CPD.
- Support for governing bodies in schools causing concern.
- Support for and adherence to Council Strategies and Plans as appropriate.
- Training in SEND and inclusion

7.5 Haringey Council's role as the supervising authority.

7.5.1 Haringey is the supervising authority of Haringey Education Partnership in accordance with the [School Companies Act 2002 Guidance](#) which means:

- a) It may direct the company to provide it with such information on the company's constitution, finances, management, and contracts to which the company is a party, as the supervising authority requests.
- b) It may direct the company to take specified steps in order to comply with these regulations.
- c) It may direct the governing body of a maintained school which is a member of the company to reduce its involvement in the management of the company in accordance with regulation 32.
- d) It may direct the governing body of a maintained school which is a member of the company to resign as a member of the company in accordance with regulation 33.

7.5.2 In the event of an open tender and the contract being awarded to an alternative provider, Haringey will remain as the supervising authority of the Company (HEP) and the responsibilities detailed in section 6.5.1 a-d would continue to apply. This is a legal requirement in accordance with the School Company Act 2002. All Schools Companies are required to have a local authority acting as the supervising authority, whether or not the Council directly commission a service from Haringey Education Partnership.

7.5.3 Retaining the responsibility as supervising authority requires Haringey Council representation to continue as board members whatever the outcome of a competitive tender. Haringey Council board representation to meet supervising authority responsibilities include as a minimum, the Director for Children's Services, the Assistant Director for Schools and Learning, the Lead Member for Children's Services, other expertise and representation from the Council as appropriate to ensure the Council can fulfil its duties and responsibilities as the supervising authority.

7.6 Whilst the council is the supervising authority of HEP in accordance with the Schools Company Act Regulations 2002 and as defined in section 7.5 of this report, this does not

extend to control over all HEP's business undertakings to meet the exemption from competition as determined by the PCR 2015, Regulation 12.

7.7 The proposed Key Performance indicators for the new service proposed will be as follows:

KPI	Measure	Description	Target
1	Ofsted	The latest Ofsted report (nursery, primary, special, secondary) confirms it is "Good" or "Outstanding".	100% of Schools in Haringey are Good or Outstanding at any time.
2	Progress 8	Haringey schools achieve the equivalent of London secondary schools Progress 8 scores.	100% of Haringey secondary schools achieve at least the London average results across the Greater London area.
3	Key Stage 4	The average combined results across all pupils in all Haringey Schools teaching GCSEs for GCSE Attainment 8 in an academic year equals or exceeds the London average.	Attainment 8 average for Haringey of at least the average results for pupils across the Greater London area.
4	Closing the gap	Differences in attainment at GCSE between disadvantaged / non-disadvantaged and White British / global majority students on average across all Haringey Schools in an academic year	The differences in attainment (measured by Attainment 8 score at GCSE) between disadvantaged/non-disadvantaged and White British/ global majority students reduce each academic year over three years, with the first academic year used for comparison being 2017-2018
5	Key Stage 2	The average published results across all pupils in all Haringey Member Schools teaching Key Stage 2 for combined reading, writing and maths in an academic year.	Above London average for KS2 combined reading, writing and maths each academic year.
6	Attendance	As part of the Improvement Partner visit, high Persistent Absence rates will be noted within the written report.	The service will work with the LA to ensure that high levels of PA and absence are flagged with an appropriate referral to the ADSL when appropriate

7	SEND	Achievement of pupils with SEND is higher than that of their peers London averages	90% of Haringey member schools have SEND pupil achievement levels that exceed the London Average.
8	Equality, Diversity and Inclusion	All schools are supported to promote equality, diversity and inclusion principles in accordance through policies, curriculum delivery, training and activities. Service to ensure that the strategic planning of the Racial Equality Steering Group positively impacts on settings with pupils from BC and BA and Turkish backgrounds making more progress and closing the gap between them and their peers	100% of schools robustly demonstrate commitment and application of Equality, Diversity, and Inclusion.
9	Governor Services	All Haringey schools shall be well supported through access to high quality advice, support, and training.	100% of Haringey schools are satisfied or very with the Governor Services offer as evidenced by an annual feedback survey to schools. Feedback in Ofsted inspections shows effective governor support and challenge in member schools .

7.8 Budget

The following recommended funding envelope requires approval. Note that the Central School Services Block annual forecast reduction of 2.5% is calculated and applied to the budget allocation for the term of the contract.

Dedicated Schools Grant Funding (Central Schools Services Block Council retained funding)	FY 25-26	26-27	27-28	28-29	Total contract value 4 years	Up to 4 years Option to extend April 2029- March 2033	Total lifetime value
New contract period commencing 1st April 2025	12 months	12 months	12 months	12 months		Up to 48 months	
	CSSB further 2.5% reduction	CSSB further 2.5% reduction	CSSB further 2.5% reduction	CSSB further 2.5% reduction	CSSB reductions	CSSB annual 2.5% annual reduction applied	
Annual Core funding 2.5% reduction p.a applied	£434,435	£423,574	£412,984	£402,659	£1,673,652	£1,512,455	£3,186,107
SEND training(High Needs Block funded)	£50,000	£50,000	£50,000	£50,000	£250,000	£250,000	£500,000
Total contract value 4 years plus 4 years OTE	£484,435	£473,574	£462,984	£452,659	£1,923,652	£1,762,455	£3,686,107

7.9 Tender timeframe

Subject to the proposal achieving approval, the scheduled timetable for the tender process is as follows:

Action	Procurement Timetable
Notify Schools Forum of the requirement to tender	July 2024
Publish Tender	July 2024
Open for applications with clarifications	August 2024
Evaluation of applications	October 2024
Award report notification to Cabinet	November 2024
Award Contract to successful applicant	December 2024
Contract signed	December 2024
Service mobilisation commences	December 2024
New service commences	1 st April 2025

8 Contribution to the Corporate Delivery Plan 2022-2024 High level Strategic outcomes

8.1 The objectives of the School Improvement and Governor functions align with the priorities within Haringey's Corporate Delivery Plan 2023-2024' through the delivery of the statutory and strategic functions outlined in section 7 the ensure support of the following outcomes and priorities.

Theme 3: Children and young people

Outcome 1 - Best Start in Life – The first few years of every child's life will give them the long-term foundation to thrive.

Outcome 2 - Happy Childhoods - All children across the borough will be happy and healthy as they grow up, feeling safe and secure in their family networks and communities.

Outcome 3 - Successful Futures - Every young person, whatever their background, has a pathway to success for the future.

- 8.2 This work contributes to Haringey's SEND Strategy 2022- 2025, which contains 5 priorities, of which Priority One and Priority Two respectively, identifies the need to support children at the earliest opportunity to access the intervention they need to achieve and thrive and 'Wherever possible, we will meet the needs of Haringey's children within Haringey'. This also links to priority two within Haringey Early Years Strategy 2022 - 2026: Every child should be able to have access to the high-quality inclusive provision that is tailored to their needs'.

9 Carbon and Climate Change

- 9.1 The council will continue to aim to reduce its overall energy consumption and will monitor its environmental performance, with attempt to reduce revenue spend on energy. Key partners which are required to deliver this vision include providers of currently outsourced services and other members of the council's external supply chain.
- 9.2 The tender opportunity will incorporate criteria to ensure that applicants demonstrate their commitment to reduce overall energy consumption and deliver sustainable environmental targets.

10 Statutory Officers comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

10.1 Finance

- 10.1.1 The expenditure as set out in the proposed contract will be fully covered by the funding available in the Central Services Block (CSB) of the Dedicated Schools Grant (DSG) and reflects future assumptions around expected reductions in the CSB. The additional funding from the High Needs Block of the DSG has been agreed to be earmarked as a fixed annual sum to cover Special Educational Needs training.

10.2 Strategic Procurement

- 10.2.1 Strategic Procurement have been consulted in the preparation of this report.
- 10.2.2 Strategic Procurement note that the report requests a decision to proceed with a procurement as the current provider no longer meets the requirements of Regulation 12 (1)(b) of Public Contract Regulations 2015
- 10.2.3 Strategic Procurement confirm that the rationale for requesting the decision stated in section 4 of the report and non-compliance with Regulation 12 (1)(b) of Public Contract Regulations 2015 are correct

10.2.4 Strategic Procurement support the request for the decision.

10.2.5 An open tender process will followed, to ensure compliance with Public Contract Regulations 2015.

10.3 Head of Legal & Governance

10.3.1 The Assistance Director for Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report. The process described in the report is in line with the Council's Contract Standing Orders (**CSOs**) 9.01.2(a).

10.3.2 Section 13 of the Education Act 1996 provides that local authorities must secure that efficient primary, secondary and further education is available in its area to meet the needs of the population.

10.3.3 Section 13A of the Education Act 1996 provides that local authorities must ensure that their relevant education functions and their relevant training functions are exercised with a view to promoting high standards, ensuring fair access to opportunity of education and training and promoting the fulfilment of learning potential by persons under 20 (under 25 if subject to learning difficulty assessment).

10.3.4 Section 5 of the Education and Inspections Act 2006 provides that local authorities must appoint a School Improvement Partner for every maintained school. This person must provide advice to the governing body and head teacher with a view to improving standards at the school.

10.3.5 Finally, the Council also has power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions.

10.3.6 Pursuant to CSOs 9.07.1(d) Cabinet may award, assign, or novate contracts valued more than £500,000 (five hundred thousand pounds). Cabinet is being asked to proceed to an open tender process in July 2024, following the expiry of the existing contract with HEP in March 2025.

10.3.7 The new contract for an initial (4) years, plus Option to extend for periods of 2 years plus 2 years (4) years each (total maximum eight (8) years), for a total maximum contract value of at a value of **£3,686,107**. The tender will invite applications to deliver the councils statutory functions and additional strategic functions in relation to School Improvement and Governor Services.

10.3.8 The proposed contracts are subject to the Public Contracts Regulations 2015 ("**PCRs**") as the estimated value is above the financial threshold for public services under the PCRs.

10.3.9 When considering its approach to contracting, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). Officers are expected to continuously consider, at every stage, the way in which procurements conducted and contracts awarded satisfy the requirements of the public sector equality duty. This includes, where appropriate,

completing an equality impact assessment as part of the procurement strategy, which is then considered as part of the procurement process.

10.3.10 Officers have conducted an equality analysis in order to assess the likely impact of the procurement strategy on individuals and groups having a protected characteristic under the Act. In considering the report recommendation the decision maker must be satisfied that the PSED has been complied with.

10.3.11 The Assistance Director for Legal and Governance (Monitoring Officer) confirms that there are no legal reasons preventing the Cabinet member for Children, Schools and Families from approving the recommendations in the report.

10.4 Equalities

10.4.1 The council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

10.4.2 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

10.4.3 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

10.4.4 This paper is seeking cabinet member approval to proceed to an open tender process in July 2024, for the commissioning of the School Improvement and Governor services function following the expiry of the existing contract with Haringey Education Partnership on 31st March 2025.

10.4.5 The tender will invite applications to deliver the council's statutory functions and additional strategic functions in relation to School Improvement and Governor Services. The service is an infrastructure service providing support and guidance to schools aligned with the Council's functions to provide training and continuous professional development, incorporating equalities duties and responsibilities, to governors. The service will be commissioned with this commitment integrated into the contract terms and conditions.

10.4.6 There will be a positive impact on those with protected characteristics, including children and people with SEND and pupils of all faiths and cultural backgrounds- they would continue to have their needs prioritised through the support provided in schools, the training offer delivered to governors. Strategies and approaches will be planned and monitored via the Racial Equality Steering Group.

10.4.7 A future service model will to ensure continued commitment to equalities and the service will retain a focus on addressing inequalities in attainment and progress

through service delivery, Monitoring and Performance measures to ensure that services are responsive to the needs of all groups, including:

- Gender – as data show that boys are at higher risk of exclusion.
- Ethnicity- data shows that Black Caribbean and Turkish/ Kurdish students can be risk of lower attainment.
- Children with special educational needs and disabilities.
- Low socioeconomic status pupils (as identified for free school meals).
- Children in Need and Children Looked After.

10.4.8 The open competitive tender for School Improvement and Governor Services will assess applicants' consideration, commitment and approach to Equality Duties through the selection questionnaire and moderation process.

10.4.9 The Council will incorporate the requirement to ensure that the commissioned service collects demographic data on activity and representation of service users via monitoring processes to ensure diversity of representation and identify any inequalities in service provision that may arise and to inform future equalities analysis.

11. Use of Appendices

No Appendices none

Background Papers: [Cabinet Decision Haringey Education Partnership 14.11.2017 HaringeyEducationPartnershipContractExtension Cabinet Report](#)