

**Report for:** Cabinet Member Signing

**Item number:** 4

**Title:** Contract extension for the Octagon Alternative Provision Academy  
(The Tri Borough Alternative Academy Trust)  
01 September 2017 – 31 August 2019

**Report authorised by :** Charlotte Pomery Assistant Director Commissioning  
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Ward(s) affected: All

**Report for Key/  
Non Key Decision:** Key Decision

## **1. Describe the issue under consideration**

- 1.1. Under the Education Act 1996 (Section 19), local authorities are required to make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who – due to illness, exclusion from school or otherwise – may not for any period receive suitable education unless such arrangements are made for them.
- 1.2. In order to meet the needs of children unable to attend school due to permanent exclusion, or of those at high risk of permanent exclusion, Haringey Council entered into a 3 year contract over the period 2014 – 2017 with the Tri Borough Alternative Provision Trust (TBAP) to manage the Octagon Alternative Provision Academy (Pupil Referral Unit) based at Commerce Rd, Wood Green N22 8DZ.
- 1.3. The report seeks approval to extend the existing contract with TBAP as allowed under the contract between the Council and TBAP and in the Council's Contract Standing Order (CSO) 10.02.1(b) for a period of 2 years from 1st September 2017 – 31st August 2019 at a value not exceeding £2,138,598.

## **2. Cabinet Member Introduction**

- 2.1 Our Corporate Plan, Building a Stronger Haringey Together, sets out our ambition that all children in the borough will have the best start in life, with access to world class education. We know that the Octagon Alternative Provision Academy supports some of our most disadvantaged and vulnerable children and young people to access high quality education and tailored support to reintegrate into a mainstream school environment.

- 2.2 Since TBAP has taken over the running of the Octagon, we have seen year on year improvements in pupil attainment and have also enabled more pupils to re-enter mainstream education in the borough. The suggested focus on support for children facing social, emotional and mental health issues which affect their learning and behaviour is welcome as part of the wider Octagon offer.
- 2.3 The proposed contract extension set out in this report will enable TBAP to continue to improve outcomes for children and young people in the borough.

### **3. Recommendations**

- 3.1 That the Cabinet Member, in accordance with the Council's Contract Standing Order 10.02.1(b), agree to approve a two year contract extension to the existing contract with the Tri Borough Alternative Provision Academy (TBAP) for the period 1<sup>st</sup> September 2017 – 31<sup>st</sup> August 2019 at a value not exceeding £2,138,598

### **4. Reasons for decision**

- 4.1 The decision to commission TBAP to deliver services in the borough was taken after an Ofsted inspection carried out in June 2013 (and subsequent follow-up inspections to February 2014) of the Pupil Referral Unit, run by Haringey Council on the same site, rated its overall effectiveness as inadequate. At that stage, it was felt that sufficient time should be allowed to ensure that this new provider met the high expectations required for a vulnerable cohort of students and so that they would be in a position to impart and deliver much needed improvements in student academic attainment.
- 4.2 Arrangements for re-tender prior to the end of the initial three year contract period would have required that the Council initiated the procurement/commissioning process in March 2016, only two years into the current contract. The Council did not believe that it was in the best interests of the vulnerable cohort referred to PRU provision to re-tender for services without first testing the model and specification via the Ofsted inspection framework. The Octagon AP Academy was inspected in February 2017 and achieved a rating of 'Good'. In addition, there have been year on year improvements in the academic attainment of young people taking exams in YR11 at the Octagon AP Academy, with the most recent set of examination results in summer 2017 showing marked improvements on 2016 achievements.
- 4.3 The Department for Education (DfE) has set out in their National Funding Formula for Schools and High Needs Policy Document, published in September 2017 following consultation earlier this year, the intention to reform schools' funding from April 2018. In this document, the DfE also noted the development of policy on alternative provision and the need to explore whether any consequential funding changes should be considered. Haringey Council intends to be prepared and in accord with any proposed statutory reform in 2019/20 and therefore does not believe it would be in the best interests of the Council, local schools and the children who need to access Alternative Provision to go out to the market prior to further progression of consultation and recommendations from the DfE.

## **5. Alternative options considered**

- 5.1** As the need to maintain a stable period of contract delivery was determined to be necessary, alternative options for the provision of education for the cohort described in paragraph 1.1 were not considered for the period September 2017 – August 2019.

## **6. Background information**

- 6.1** The decision to commission TBAP to deliver services in the borough was taken after an Ofsted inspection carried out in June 2013 (and subsequent follow-up inspections to February 2014) of the Pupil Referral Unit, run by Haringey Council on the same site, rated its overall effectiveness as inadequate.
- 6.2** The Octagon Pupil Referral Unit converted to Academy Status under the auspices of TBAP in March 2014. TBAP has an existing agreement with the Education Funding Agency for the delivery of educational provision in the borough. Top up contributions are made by Haringey Council as set out in Appendix 1. The number of placements is currently set at 58 to accommodate local demand.
- 6.3** Under the provisions of the Academy Arrangements 2010, the Council is the freeholder of the land accommodating the Octagon Alternative Provision Academy with TBAP having entered into a 125 year lease of the site.
- 6.4** Haringey Council commissions local specialist provision for local children and young people, across Key Stage 1 and Key Stage 2, at the Octagon. This provision has an emphasis on customised learning pathways delivered in a nurturing environment, under-pinned by high quality packages of specialist support within their local community. The provision is for children who have been permanently excluded, or at risk of being permanently excluded, with a focus on enabling them to return to mainstream school provision whenever possible. The extension of the contract for two years will enable TBAP to continue to offer this cohort of children and young people a supportive and ambitious learning environment. Funding for standard pupil placements, Outreach Provision and the Additional Rolling Placement will continue to be met by the Alternative Provision Commissioning Budget.
- 6.5** An increasing number of the children and young people in the cohort of those who have been excluded or who are at risk of exclusion have specific needs with regard to their mental health and wellbeing. These needs are referred to as Social, Emotional and Mental Health (SEMH) difficulties. This increase in numbers is leading to an increased demand for specialist provision which can support children and young people with these needs. A lack of local dedicated SEMH provision means that the Council is having to make placements in out of borough provision, away from family and community, and at significant additional cost, in order to meet these needs.

- 6.5.1 The Council recognises the importance of having provision locally to meet the increasing demand for children and young people with SEMH. Establishing a dedicated 10 placements provision as part of the Octagon offer is one element of a process to develop a range of provision locally to meet the varying needs of these students so that families have greater choice in regards to education and support available in Haringey. This provision will mean that children who may currently have to move out of borough for their SEMH support will be able to remain in Haringey, as part of their family and community.
- 6.5.2 Despite the year on year increases in demand for provision for children and young people with SEMH difficulties, the Council is keen to ensure that provision is developed and created within the allocated budget for children with high needs in the High Needs Block. As well as the improved outcomes for children achieved by supporting them to be educated locally, remaining part of their families, social networks and communities, the costs of supporting children locally are consistently lower than the costs of supporting children out of borough in independent specialist provision. By actively developing local services to meet the needs of local families, the pressures on both the Dedicated Schools Grant and the Council's General Fund, can be alleviated. In this regard the Council has an opportunity to build on current infrastructure in order to realise better outcomes for children and value for money.
- 6.5.3 The funding for SEMH provision will be met by the High Needs Block.

## **7. Financial implications**

- 7.1 The proposal is for investment in local SEMH provision with a capacity of 10 placements to reduce the reliance on out of borough placements for children and young people with SEMH needs. The placements would meet the needs of up to 14 children over the period of a year, as not all children will stay in placement for a full year. This proposal for in-borough specialist provision at the Octagon will meet the assessed needs of most children and young people with SEMH, a proportion of whom would previously or otherwise have been placed in costly, out of borough provision.
- 7.2 The financial impacts of this proposal need to be considered as two parts – the additional cost of the Octagon offset by savings from a reduction in out of Borough provision leading to an overall net cost reduction.
- 7.3 The annual cost of local provision at the Octagon, with improved educational and social outcomes, would be £273,344. This is made up of £140,000 per annum for the SEND top up (14 places at £10,000 per year per place) and £133,340 for the cost of providing the additional support to the SEMH Placements themselves. The current budget of £84,000 for SEND top up at the Octagon is based on 6 places for this cohort of children. This proposal is therefore a net additional cost to the Council of £189,340.
- 7.4 However, the unit cost of a placement under the proposed model is approximately 50% lower than the current Out-of-Borough specialist provision (£27,344 at the Octagon of compared with £56,000 per year per child for each Out-of-Borough placement).

- 7.5 It is recognised that some children will continue to require an out of borough placement due to the complexity and acuity of their needs. It is therefore assumed that 4 children a year would continue to be placed in out of borough placements each year to meet their needs. Based on the average costs in 7.3 above, this would lead to an annual spend of approximately £224,000 on out of borough provision for this cohort, a reduction of £504,000 against the current £728,000 spend.
- 7.6 Taking into account both the children placed in Borough and those whose needs will continue to be met Out-of-borough, the net financial implication of the proposal is an annual saving of £314,660 as set out in table 1 below

**Table 1**

	<b>Unit Cost</b>	<b>Total Annual Cost</b>
<b>Proposed costs of future provision</b>		
Octagon – cost of 14 x SEND places	£10,000	£140,000
Octagon - Top	£13,334	£133,340
Ongoing Out-of-Borough provision for 4 children	£56,000	£224,000
<b>Total proposed costs</b>		<b>£497,340</b>
<b>Current budget</b>		
SEND Top-Up		£84,000
Out-of Borough Placement for 13 children	£56,000	£728,000
<b>Total current budget</b>		<b>£812,000</b>
<b>Net savings from this proposal</b>		<b>(£314,660)</b>

- 7.6 Appendix 1 shows historical spend on Octagon AP Provision, SEND Top Up for children with Education Health Care Plans placed at the Octagon and predicted spend for Octagon and SEMH provision. Up front spend via the High Needs Block will be met from predicted savings by bringing children back to the borough where their needs can be met.

## **8. Contribution to strategic outcomes**

- 8.1 Considering year on year improvements in the academic attainment of young people taking exams in YR11 at the Octagon AP Academy continuation of Provision under an extended two year contract will directly contribute to the outcomes described under Priority 1 of the Corporate Plan 2015 - 2018, giving all children the best start in life, including world class education.

## **9. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

## **9.1 Finance**

- 9.1.1 In Borough and Out-of-Borough SEND and support needs are currently funded from the High Needs Block (HNB) of the Dedicated Schools Grant (DSG) which has a gross revenue budget of £35m before academy recoupment.
- 9.1.2 At the end 2016/17 financial year, the HNB carried forward an overspend of £1.34m from 2016/17 and is currently forecasting a further overspend of £780k in year for 2017/18, bringing the budget to a total deficit of £2.12m. At present, this is funded by using surpluses on the Early Years Block. Changes in the National Funding Formula for schools limited amounts in future years that can be transferred between blocks making current arrangement unsustainable.
- 9.1.3 The 2016/17 carried forward position has been reported to Schools Forum and there is an expectation that proposals be presented the next appropriate Forum to address the historic deficit and the to tackle the ongoing in year overspend. This budget is required to be self sustaining, with no call on the General Fund.
- 9.1.4 This proposal is therefore part of a range of management actions needed to deliver a financially sustainable position in the medium term. Although this proposal will not deliver savings in 2017/18, but is forecast to deliver ongoing annual net savings of £315k from 2018/19 onwards as set out in table 1 above.

## **9.2 Procurement**

- 9.2.1 CSO 3.01d) allows for the Cabinet to award a contract extension with an aggregated value at £500K or more. The current contract has provision to extend which Service have decided to trigger for justified reasons. Procurement supports this action.
- 9.2.2 Procurement confirm that the extension of this contract without competition represents best value for money for the Authority.

## **9.3 Legal**

- 9.3.1 The Assistant Director of Corporate Governance notes the contents of the report.
- 9.3.2 The Contract between the Council and TBAP of which the extension is being sought allows for the extension by providing that following a 3 year term, the contract will be reaffirmed or renegotiated within the framework of the contract and CSO 10.02.1(b) gives Cabinet the power to authorise the extension of a contract where the value of the extension is £500,000 and above.
- 9.3.3 The Assistant Director of Corporate Governance sees no legal reasons preventing Cabinet from approving the recommendations in the report.

## 9.4 Equality

- 9.4.1 The Octagon AP Academy is responsible for delivering educational programmes and support to some of the most vulnerable children in the borough.
- 9.4.2 The Council aims to ensure that students requiring access to alternative provision have access to high quality and appropriate curriculum, achieve their potential and are not disadvantaged in comparison to their peers accessing education in mainstream settings. We intend that Haringey has a range of educational opportunities for all children and young people, including those with challenging behaviours. Incorporated in the proposed extended contract with TBAP is the opportunity to produce in borough specialist provision for children with Social Emotional Mental Health needs. The development of local provision will support a multi agency model, collaborative approach designed to meet the educational, therapeutic and social needs of our most complex and hard to reach young people.
- 9.4.3 The provision is an Academy and will continue to be subject and compliant to the Public Sector Equality Duty, covering race, disability, gender, age, sex, sexual orientation, pregnancy/maternity and religion or belief. The Council will continue to demonstrate that they have due regard to the need to eliminate discrimination and advance equality of opportunity through the development of the commissioned provider's policies and delivery of services.
- 9.4.4 BAME children and young people are overrepresented in school exclusions and overrepresented in Alternative Provision. Similarly, children and young people with Special Educational Needs and Disabilities (SEND) are overrepresented and are in the main assessed as having Social Emotional and Mental Health (SEMH) needs. The Council acknowledges that children and young people in these protected groups can face inequalities of outcome and will continue to ensure that those children receive high quality and appropriate service in Alternative Provision.
- 9.4.5 Access to Alternative Provision will continue to be based on the educational needs of the pupil, which is likely to support children with Special Educational Needs and Disabilities, who are protected under the Equality Act. Pupils who currently receive Alternative Provision will continue to receive the service and the eligibility criteria are unchanged. Furthermore, recent external inspections evidence that the provision is achieving desired outcomes for children and young people.
- 9.4.6 An Equality Impact Assessment is not required as there will not be a change in the provision and eligibility criteria as a result of this decision.

## 10. Use of Appendices

None.

## 11. Local Government (Access to Information) Act 1985

- 11.1 Octagon Pupil Referral Unit Academy Conversion 10<sup>th</sup> March 2014

Octagon Transfer Agreement, 2014.