

DERBYSHIRE COUNTY COUNCIL
CABINET MEMBER FOR YOUNG PEOPLE

4 July 2017

Report of the Strategic Director of Children's Services

Conversions of Statements of SEN to EHC Plans

1. Purpose of the Report

To seek Cabinet Member approval to partially outsource the converting of statements of Special Educational Needs (SEN) to Education Health and Care (EHC) Plans.

2. Information and Analysis

All local authorities have a duty to either convert (or cease) all their existing Statements of SEN to EHC Plans by 31 March 2018. Progress towards this is being monitored on a monthly basis by data returns to the Department of Education (DfE) and through reporting to the Derbyshire SEND (Special Educational Needs & Disabilities) Strategic Board.

This monitoring and the SEND Local Area Inspection in November 2016 highlighted that the numbers being completed needed to increase to enable completion by the March 2018 deadline. Actions were put in place to achieve this.

It is now clear that despite all the best efforts to increase the output of the EHC writers, they have not been able to dramatically increase the rate of the number of Conversions being completed to a level that will enable them to meet the March 2018 deadline. This is due to a number of factors including the work being more complex than was originally envisaged and challenges regarding completing new EHC plans.

There is a serious and real risk that the Council will miss its target by between 1,000 and 1,500 Conversions. A review has been undertaken as to the Council's approach to achieving the deadline of March 2018 including the need to outsource a significant number of the Conversions to external companies. This is an issue that is being faced by many councils across the country, with currently 1 in 3 outsourcing in this way.

Research shows there are a number of organisations who undertake this work (8 known) and the costs involved vary between £70-£100 per plan. Due to the number of Conversions required and associated costs there will be a requirement to tender this provision in line with the Financial Regulations. Initial work on this is underway and following Cabinet Member approval, the Council will be ready to go out to tender by mid July 2017. This will enable successful bidders, subject to approval by Cabinet Member, to commence working on Conversions by mid-September 2017 at the earliest.

Due to the quantity of Conversions required to be undertaken, the contract will be based on a framework agreement whereby a number of providers will undertake the work.

The Council's Regional DfE advisor is in regular contact with the Council in relation to this issue and shares our view that the rate of Conversions in Derbyshire needs to be accelerated. The DfE is aware that partial outsourcing is to be recommended. DfE has an option to send councils an official letter of concern if it believes that the plans in place to deliver conversions are not sufficiently robust. Derbyshire has not received such a letter to date, however, this is a risk, should timely mitigating action not be taken.

At the same time as outsourcing Conversions, the Council's in-house SEND team will continue to work with the EHC Writers to improve the rate of in-house Conversions and look at options for other existing staff to assist where possible in order to bring down the total number that will need to be outsourced.

Outsourcing has not been the preferred option up to this point as it means that the Council has less control over the quality of the plans and due to the need to manage the data protection risks in sending confidential and sensitive data out to a third party. This will be mitigated by the procurement process that will provide due diligence and protection to the Council and ensure that data will be transmitted and dealt with securely. Initial market exploration has provided reassurance in relation to the quality of the plans being produced by external providers and their data transfer and security processes and protocols.

4. Financial Considerations

The SEND implementation grant has £26k set aside for an additional writer post and has a contingency of £71k and it is recommended that this is used to fund the outsourcing of Conversions. This will fund approximately 1,140 Conversions at a mid-market rate of £85 per Conversion. If further funding

is required, existing SEN budgets will be reviewed and considered in order to provide this.

5. Legal Considerations

Part 5 of the Children and Families Act 2014 (Transitional and Saving Provisions) (No. 2) Order 2014 requires Local Authorities to review all of the Statements of SEN which they maintain for children and young people with a view to replacing them with EHC Plans by no later than 31 March 2018. This requires the Local Authority to carry out a ‘Transfer Review’, i.e. an EHC needs assessment under Section 36 of the Children and Families Act 2014 (“the 2014 Act”).

Should the outcome of a child or young person’s Transfer Review / EHC needs assessment be that the Local Authority determines that it is no longer necessary for special educational provision to be made for the child or young person in accordance with a Statement of SEN or EHC Plan, an EHC Plan will not be issued and the Authority will instead cease to maintain the child’s Statement of SEN (a decision against which a right of appeal to the SEN Tribunal exists).

6. Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime & disorder, equality of opportunity, human resources, legal & human rights, environmental, health, property, social value and transport considerations.

7. Key Decision?

No.

8. Call-in

Is it necessary to waive the call-in period in respect of the decisions being proposed within this report?

No.

9. Background Papers

None.

10. Officer’s Recommendations

That Cabinet Member approves the requirement to tender the partial outsourcing of Conversions, in line with the Council’s Financial Regulations as outlined in this report.

Jane Parfremment
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