

Cabinet
18 June 2015

4. FUTURE FIT: COMMISSIONING OF LEARNING AND ACHIEVEMENT

Relevant Cabinet Members

Mr J P Campion, Mr M L Bayliss.

Relevant Officer

Director of Children's Services

Recommendation

- 1. The Cabinet Members with Responsibility for Children and Families and Transformation and Commissioning recommend that Cabinet:-**
 - (a) notes the Council retains responsibility for outcomes for children and young people in Worcestershire's schools and settings;**
 - (b) approves the recommendation to appoint Babcock as the preferred supplier of those Learning and Achievement services for Worcestershire agreed to be in scope by Cabinet on 10 April 2014, subject to (c) and (d) below;**
 - (c) authorises the Director of Children's Services in consultation with the Cabinet Member with Responsibility for Children and Families to finalise the terms and enter into a contract with Babcock for the supply of Learning and Achievement services (other than in relation to Special Educational Needs and Disability (SEND) provision) after having conducted satisfactory contract discussions and due diligence; and**
 - (d) authorises the Director of Children's Services in consultation with the Cabinet Member with Responsibility for Children and Families to decide whether, and if so when, to contract with Babcock for SEND provision, and to take all necessary action in relation to any such decision.**

Background Information

2. The Council is on a journey to become an 'excellent commissioning authority' and to secure best value in the long-term for the residents and businesses of Worcestershire.
3. Learning and Achievement is a key priority for the Council. It contributes to the Children and Families strand of the Corporate Plan, as well as supporting the Council's

Open for Business strategy.

4. The commissioning of Learning and Achievement does not remove from the Council the overall responsibility for the maintenance and improvement of educational outcomes for the county's children and young people. Services delivered by Babcock would be done so on behalf of the Council. Learning and Achievement would retain a central strategic core to ensure effective support and challenge in their work with Babcock, and to directly lead on the Council's statutory duty to provide sufficient quality places for Worcestershire's children and young people of statutory school age.

5. The commissioning of Learning and Achievement services is in line with the principles of the operating model for the Council - realising the required savings whilst at the same time enabling transformational change and innovation in service delivery to achieve outcomes for Worcestershire residents and sustain or improve service delivery levels and quality.

6. The commissioning of Learning and Achievement services reflects the significant changes in the relationship between the Council and key stakeholders, for example the growth in the number of Academies and initiatives such as Teaching Schools leading to sector-led support and challenge.

7. In recent years there has already been a significant shift in focus of services to target areas of greatest need, principally for underperforming schools, and the needs of vulnerable groups of learners. Over this period educational outcomes have improved significantly for many young people and this improvement is also reflected in the improved profile of Ofsted inspection outcomes, with 88% of schools being judged as good or outstanding. The commissioning of Learning and Achievement would enable the Council effectively to maintain its overview of improving outcomes for learners through budget reductions, with a focus on key performance indicators. As a commercial organisation, Babcock would be able to develop their sold services in order to provide to schools and settings an increased range of services. They would be able to do this through leading in Worcestershire, but also through developing work in neighbouring authorities.

8. Alongside this there are significant savings required over the next three years in Learning and Achievement. A review has been undertaken to determine how Learning and Achievement can continue to meet required outcomes and Local Authority statutory duties within a significantly reduced budget. The 2013/14 controllable budget was £8.9 million (excluding Home to School Transport, and Dedicated Schools Grant (DSG) funding).

9. Savings of £1.8 million were allocated to the 2014/15 financial year and fully delivered in line with the savings plan. Subsequent savings are shown in the following table:

	£'000
2015/16	584
2016/17	1,495
2017/18	376
Total	2,455

with the corresponding split between savings from commissioning and savings to be made from retained core services (strategic place planning, the Virtual Headteacher for looked after children, and commissioning support linked to schools and settings):

	£'000
Retained Service savings	768
Commissioned Service savings	1687
Total	2,455

10. In April 2014 Cabinet approved:

- all services proposed to be in scope of the procurement process (Commissioned Service)
- all services out of scope of the procurement process to be retained in the Strategic Commissioning Function (Retained Service)
- the proposal to undertake one procurement process for all services, and
- the proposed approach to market engagement.

Members are referred back to that report setting out the detail.

Stakeholder and Market Engagement

11. Stakeholder engagement has been undertaken with a wide range of stakeholders from across the 0-19 spectrum during the commissioning process, including staff, schools and settings and recognised trade unions.

Stakeholder	Activity
Staff	Staff engagement sessions Staff briefings Staff newsletters Use of SID – (internal staff intranet)
Schools and Settings (inc. early years and childcare providers and child minders)	Member visits, including Scrutiny Panel Members, to schools. Regular stakeholder updates. Workshops set up for Schools and Settings to participate in the market

	engagement and service specification development. Meetings with executive Head Teacher groups.
Unions	Regular Union meetings
Governors	Via Governor Services
Members	Regular Member updates/briefings

The Tender Process

12. An open information session for all interested organisations was run to identify potential providers. This engagement was further enhanced by a series of one to one meetings between providers and officers and the collation of information through early due diligence work on the organisations engaged with to date.

13. Following the market engagement process a formal restricted procurement was undertaken, commencing in October 2014. The duration of the contract would be for 5 years with the possibility of extension for a further two years. The total value of the contract over 5 years would be £38.855m assuming DSG and Special Educational Needs and Disability (SEND) budgets remain as 2014/15. This excludes services funded from income from trading which the provider is expected to develop further over the contract period.

14. Following evaluation under the restricted procedure there were no tenders considered to be suitable, and the Council moved to a negotiated procedure in accordance with Regulation 14 of the Public Contracts Regulations 2006, and invited the companies which had been invited to tender to negotiate on commercial terms and conditions within the proposed contract. This procedure concluded with two best and final tenders being submitted for final evaluation.

15. The tenders were evaluated against the following criteria outlined in the tender document:

- Price
- 3 year outline business plan
- Detailed transition and transformation plan for year 1
- Digital systems
- Core values, principles and cultural ethos relating to Learning and Achievement.

Preferred Provider

16. Following formal evaluation of the tenders, the organisation which met the criteria and awarded the highest score was Babcock.

17. Babcock is the UK's largest provider of support services to schools, academies and multi-academy trusts. They currently work with over 50 local authorities across the UK

Transitional Arrangements

and they employ over 600 education specialists. In 2004 they created Babcock 4S – a joint venture with Surrey County Council to develop a new approach for improving local authority education support services and school effectiveness whilst reducing costs. In 2012 they created Babcock LDP with Devon County Council to bring together quality assurance expertise in the South West to raise education outcomes and deliver effective support to schools and academies.

18. Transition of Learning and Achievement services would take approximately three and a half months, if Cabinet approves the proposals, with the transfer date being 1 October 2015. A transition plan is in place to ensure adherence to this timescale, including the effective transition of services part way through an academic and financial year. It is expected that there would be a phased transition to ensure continuity, particularly for services directly to schools and settings.

19. The contract is expected to be awarded for a duration of 5 years with an option to extend for a further 2 years.

20. A detailed transition plan would be developed with the preferred provider to transfer the commissioned services. A separate timeline would be developed with the provider for the transfer of SEND services when the Council is confident that the provider is in a position effectively to deliver these services.

21. It is likely that all staff in scope would TUPE transfer to the new provider on 1 October 2015.

22. If approved, stakeholders and staff will be communicated with during the process both by the Council and the new provider to ensure they understand the process and how it impacts upon them. This will be done using a variety of media and face-to-face sessions using established forums.

23. If Cabinet agree the recommendations, the Council will maintain a performance management/quality assurance role as part of the Intelligent Client Unit, supported by the Commercial Team in commercial contract management through the central commissioning support functions. Measurement of contract performance will be outcome based and demonstrate return on investment and added value through benefit realisation and flexibility of approach through demand management.

Financial Implications

24. The total potential contract value for the 5 years is £38.855m as shown below, with further detail given in Appendix 1.

Funding Source	5 Year Value (£m)
WCC Base Budget	12.750
Services funded by DSG	20.805
Value prior to SEND services	33.555
SEND Services	5.300
Overall potential contract value	38.855

The funding for Special Educational Needs and Disability (SEND) are shown separately as Worcestershire County Council reserves the right to retain these services until it is confident that a Service Provider can deliver all requirements and statutory responsibilities of new legislation following SEND Reform.

25. The Dedicated Schools Grant (DSG) is a specific ring-fenced grant allocated from the Department for Education (DfE) to Local Authorities to fund schools, high needs providers, early years providers and associated central services. It is currently allocated on a historic basis in three unringfenced blocks for Schools, High Needs and Early Years. The expenditure that can be funded by the DSG is prescribed in the DSG conditions of grant and the School and Early Years Finance (England) Regulations. Some of the services in the scope of the Learning and Achievement commissioning will be funded by the DSG and as such the process must take account of these prescribed matters.

26. Assuming the same allocations as 2015/16, the value of the DSG included in the procurement of Learning and Achievement Services is approximately £20.8m over the 5 year contract term (£4.161 million p.a). This equates to 62% of the total contract value excluding SEND services (54% when SEND is included). DSG funded services consist of Specialist Teaching Services for Children, administration of schools admissions, specialist guidance and assessment for early years and the Virtual School.

27. Outside of the budget in scope for procurement are the DSG placement budgets which cover Early Years, High Needs Top Ups and places within the Independent Sector which budgets will remain with the County Council. The amount available can vary during each financial year and within financial years based on demand, cost of placements and availability of resources.

28. The Council will retain responsibility for payment of DSG funding to approved and relevant schools and other settings. The Council will also be responsible for strategic place planning. However, it will be the responsibility of the provider to work with the Council using relevant information regarding place planning school admissions, budget allocations available, pricing schedules and banding criteria to allocate children and young people into

the most appropriate placements based on their assessment of need and availability of resources.

29. The provider will need to work with the Council to allocate available resources based on each child's need; however, the responsibility for payments will rest with the Council. It will also be necessary for the provider to furnish the Council with the information required to assure itself that payments to be made to schools and other settings are accurate and eligible for DSG funding.

30. Contract years will be different to financial years, with each contract year commencing on 1 October. For contract year one (1 October 2015 – 30 September 2016) the full 2015/16 base budget allocation (£3.848m) will be paid subject to contractually agreed delivery of services. Increasing levels of savings are expected to be delivered over years 2 and 3 of the contract, rising to an annual saving of £1.678m.

31. For contract year 2, the provider will receive a part year value of each of the 2016/17 and 2017/18 decreased budgets, detail of which is given in Appendix 2. From then on, funding will be reviewed by the Council during the last quarter of each financial year and any change will be effective from the start of the next financial year. The provider will be expected to use this budget to deliver against the Key Performance Indicators in order to ensure the Council maintains oversight of outcomes for children and young people, and also cover the cost of transformational and organisational change.

32. The extra time taken in the commissioning process has had both financial and operational implications, resulting in a one-off pressure of £637,000 in 2016/17, however plans are in place to avoid this having an impact on the overall delivery of savings targets.

Legal Implications

33. Legal Guidance has been taken on which services or exercise of statutory discretion can be transferred to a private 3rd party provider to be undertaken on our behalf. Those that cannot be so transferred will remain with the Strategic Commissioning Function. This covers the duty to provide sufficient places for learners, the role of the Virtual Headteacher, and overall responsibility for the educational outcomes for children and young people.

Equality Implications

34. The findings from the Equality Relevance Screening indicated that a detailed impact analysis could be required as services provided by Learning and Achievement affect all learners.

35. A 'due regard' exercise was completed in respect of each of the 'in scope' areas both before and during procurement to determine and monitor the level of "due regard" which should be exercised in respect of the Public

Sector Equality Duty. Further Equality Impact Assessments will be undertaken as necessary in respect of SEN services.

36. Particular diligence was exercised regarding promoting improved outcomes in areas where service recipients have more than one of the Protected Characteristics (defined in the Equality Act) and where there is the potential for significant change as we increasingly focus resources on meeting our statutory responsibilities.

Information Technology

37. As part of the tender evaluation process it was agreed that the Council will continue to host and manage suppliers to maintain the main systems which support the service delivery, i.e. Capita One and Tribal systems. This will have a cost and staffing implication to continue to deliver the support to these systems. The financial implications have been mitigated against as part of the overall financial affordability and alternative opportunities identified to offset the inability to deliver savings in 2017/18 on the cessation of support to these systems.

Commercial Implications

38. The preferred provider has identified a significant income generation strategy, and how the risk of any shortfall will be managed.

39. Risk share arrangements relating to further budget reductions have been negotiated with the preferred provider for base budget and DSG funded activities only.

40. A gain share mechanism for the delivery of core services, in the form of a payment by results mechanism, is in place to ensure contract performance and profit share are linked to enable the re-investment of agreed profit levels into the delivery of core services.

Conclusion

41. The Cabinet is therefore recommended to approve the appointment of Babcock as the preferred supplier of those Learning and Achievement services for Worcestershire agreed to be in scope by Cabinet 10 April 2014, and authorise the Director of Children's Services, in consultation with the Cabinet Member with Responsibility for Children and Families, to finalise the terms and enter into a contract with Babcock for the supply of Learning and Achievement services (other than in relation to Special Educational Needs after having conducted satisfactory contract discussions and due diligence. Cabinet is also asked to authorise the Director of Children's Services, in consultation with the Cabinet Member with Responsibility, to determine whether SEND is commissioned.

Supporting Information

- Appendix 1 – Base and income funded budgets for the commissioned services
- Appendix 2 – Confirmed Contract Values

Contact Points

County Council Contact Points

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Specific Contact Points for this report

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Background Papers

In the opinion of the proper officer (in this case the Director of Children's Services) the following are the background papers relating to the subject matter of this report:-

Agenda and background papers for the meetings of Cabinet held on 21 June 2012, 8 November 2012 and 10 April 2014.

which are available on the Council's website at:

<http://www.worcestershires.gov.uk/cms/democratic-services/minutes-and-agendas.aspx>