

## **CABINET**

<b>DATE</b>	14 <sup>th</sup> January 2026
<b>REPORT OF</b>	Councillor Margaret Cracknell – Children and Education
<b>RESPONSIBLE OFFICER</b>	Ann-Marie Matson – Director of Children’s Services
<b>SUBJECT</b>	Procurement of Unregistered Alternative Provision Framework
<b>STATUS</b>	Open
<b>FORWARD PLAN REF NO.</b>	CB 01/26/04

### **CONTRIBUTION TO OUR AIMS**

This proposal directly supports the Council’s overarching vision of “Stronger Economy, Stronger Communities” as set out in the North East Lincolnshire Council Plan 2023–2026. By establishing a framework for commissioning unregistered alternative provision, we aim to:

- Improve outcomes for vulnerable children and young people, particularly those with Special Educational Needs and Disabilities (SEND), by ensuring access to high-quality, safe, and appropriate education settings.
- Support inclusive education and reduce exclusions, aligning with the Council’s commitment to protecting children and enabling all residents to live better lives.
- Strengthen local partnerships with providers, schools, and families to co-produce solutions that meet individual needs and promote independence.

The framework also contributes to the priorities outlined in the SENDAP Sufficiency Strategy 2024–2029, particularly:

- Priority 3: Strengthening the local offer of alternative provision to reduce reliance on out-of-area placements and improve sufficiency within North East Lincolnshire.
- Priority 4: Supporting children to remain in or return to mainstream education where appropriate, through targeted and flexible provision.
- Priority 5: Ensuring quality and safeguarding standards across all commissioned provision, including those not registered with Ofsted.

Together, these aims reflect a shared ambition for every child and young person in North East Lincolnshire to be included in education and society, to develop independence, and to achieve outcomes that matter to them.

### **EXECUTIVE SUMMARY**

This report seeks Cabinet approval to establish a formal contract arrangement for commissioning unregistered learning provision for children and young people with

Special Educational Needs and Disabilities (SEND) in North East Lincolnshire. Currently, the Council relies on a spot purchasing model to secure placements in unregistered provision. While this approach offers flexibility, it presents several challenges:

- Inconsistency in quality assurance and oversight
- Limited ability to forecast and manage costs
- Reactive rather than strategic commissioning
- Increased administrative burden on teams
- Reduced leverage in negotiating value for money

Moreover, the spot purchasing model is not aligned with the principles of the Procurement Act 2023, which emphasises transparency, fairness, and value-driven procurement. The Act encourages public bodies to move away from ad hoc arrangements and towards structured, competitive frameworks that promote market engagement and long-term planning.

The proposed new arrangement will introduce four distinct Lots, each tailored to specific types of provision, and will enable the Council to:

- Commission provision in a more planned, equitable and compliant manner
- Improve outcomes and experiences for children and young people
- Strengthen provider relationships and market stability
- Ensure legal and financial accountability

This report outlines the rationale for the new contract arrangement, the proposed structure, and the next steps for implementation.

## **RECOMMENDATIONS**

It is recommended that Cabinet:

1. Approves the establishment of a formal commissioning arrangement for unregistered alternative provision for children and young people with SEND in North East Lincolnshire.
2. Delegates authority to the Director of Children's Services in consultation with the Portfolio Holder for Children and Education, to commence the procurement exercise and thereafter to make awards and deal with all ancillary matters reasonably arising.
3. That the Assistant Director Law and Governance (Monitoring Officer) be authorised to complete and execute all requisite legal documentation arising from the above recommendations.

## **REASONS FOR DECISION**

The procurement of a new contract arrangement is required to ensure compliance with the Procurement Act 2023. The new arrangement will improve the Quality assurance of provision that is being purchased to meet the learning needs of children with an Education, Health and Care plan for whom we are unable to identify a suitable place in a registered education setting. The new system will increase the focus on children returning to formal education and strengthen work with organisations providing these opportunities to our children.

## **1. BACKGROUND AND ISSUES**

- 1.1. North East Lincolnshire Council currently commissions unregistered alternative provision for children and young people with SEND on a spot purchase basis, often in response to urgent or complex needs. While this approach has enabled flexibility, it has also led to challenges in ensuring consistency, quality, and value for money.
- 1.2. Unregistered provision refers to education or support settings that are not registered with Ofsted, but which may still play a vital role in meeting the needs of children who cannot access mainstream or registered specialist provision. These settings are often used for short-term interventions, therapeutic support, vocational training, or bespoke packages for children with EHCPs.
- 1.3. In recent years, demand for such provision has increased, driven by:
  - Rising numbers of children with EHCPs
  - Greater complexity of need
  - Limited capacity within registered provision
  - A growing emphasis on personalised and flexible education pathways
- 1.4. The absence of a formal commissioning arrangement has made it difficult to:
  - Monitor quality and safeguarding standards consistently
  - Ensure equitable access across the borough
  - Plan and forecast spend effectively
  - Comply with procurement legislation
- 1.5. To address these issues, the Council has developed a proposed new contract arrangement comprising four Lots, each reflecting a different type of provision:
  1. Vocational Training
  2. Life Skills Preparation
  3. Therapeutic or SEMH Support
  4. Bespoke Education Packages for children who are unable to take part in group learning or attend an educational setting
- 1.6. The proposal has been informed by engagement with internal teams, providers, and families, and is designed to support the priorities outlined in the SENDAP Sufficiency Strategy and the Council Plan. It will enable the Council to move from reactive commissioning to a more strategic, transparent, and outcomes-focused approach.

## **2. RISKS, OPPORTUNITIES AND EQUALITY ISSUES**

- 2.1. The key risks associated with this proposal include:
  - Procurement compliance: Failure to implement a structured contract arrangement could result in non-compliance with the Procurement Act 2023.
  - Provider engagement: Risk that providers may not participate in the new contract arrangements, limiting choice.
  - Financial control: Without a clear commissioned arrangement, spend may remain unpredictable and difficult to manage.

- 2.2. These risks are addressed through the proposed new contract arrangement, which introduces clear standards, competitive tendering, and robust contract management.
- 2.3. The proposed procurement presents significant opportunities to:
  - Improve quality assurance and safeguarding standards across all commissioned provision.
  - Enhance value for money through transparent and competitive procurement.
  - Strengthen local market capacity, supporting providers to deliver flexible and innovative solutions.
  - Align commissioning with the SENDAP Sufficiency Strategy, reducing reliance on out-of-area placements.
- 2.4. An Equality Impact Assessment (EIA) has been completed and indicates that the proposed arrangement will have a positive impact on children and young people with SEND by:
  - Improving access to appropriate provision
  - Reducing inequalities in commissioning decisions
  - Supporting inclusion and better outcomes
  - No adverse impacts have been identified.

### 3. OTHER OPTIONS CONSIDERED

- 3.1. **Option 1: Establish a formal commissioning arrangement (Recommended)**

This option introduces a structured approach to commissioning unregistered alternative provision through a competitive contract arrangement with multiple suppliers with defined Lots. It supports legal compliance, improves quality assurance, and enables better financial planning. It aligns with both the Procurement Act 2023 and the SENDAP Sufficiency Strategy.
- 3.2. **Option 2: Continue with spot purchasing (Not recommended)**

Maintaining the current model would retain flexibility but does not address the issues of inconsistent quality, limited oversight, and lack of strategic planning. It also poses risks in terms of procurement compliance and financial accountability.
- 3.3. **Option 3: Cease commissioning unregistered provision (Not viable)**

This option would significantly reduce the Council's ability to meet the needs of children and young people with complex SEND, particularly where registered provision is unavailable or unsuitable. It would likely result in increased exclusions, out-of-area placements, and unmet needs.
- 3.4. The recommended option provides a balanced and sustainable solution that enables the Council to meet its statutory duties while improving outcomes for children and young people.

#### **4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS**

- 4.1. There are potential positive reputational implications for the Council resulting from the decision. Establishing a formal commissioning arrangement demonstrates a commitment to transparency, compliance, and improving outcomes for children and young people with SEND. This aligns with statutory duties and national best practice.
- 4.2. An action plan will be agreed with the Council's Communications Service, covering:
  - Statutory communications requirements: Ensuring compliance with procurement regulations and public notice obligations.
  - Consultation requirements: Communicating with providers, families, and stakeholders during market engagement and implementation.
  - Information requirements: Providing clear guidance on the arrangement, including eligibility, referral processes, and quality standards.
  - Communication channels: Using the Council website, provider bulletins, SEND newsletters, and social media to share updates and opportunities.
- 4.3. Proactive communication will help manage expectations, promote provider engagement, and reinforce the Council's commitment to improving SEND provision locally.

#### **5. FINANCIAL CONSIDERATIONS**

- 5.1. There are no resource implications in the work to undertake the procurement of a new contract arrangement as there are currently officers in place both in the commissioning team and in procurement whose roles this falls under.
- 5.2. The proposed new contract arrangement will not introduce new financial commitments beyond those already anticipated within existing SEND budgets. However, it will provide a more structured and transparent mechanism for managing spend on unregistered alternative provision.
- 5.3. Over the next five years, the estimated cumulative spend on this type of provision is projected to be approximately £5 million, based on current demand and historic expenditure trends. This includes placements for children and young people with Education, Health and Care Plans (EHCPs) who require bespoke or specialist provision not available within registered settings.
- 5.4. The arrangement will support improved financial oversight by:
  - Enabling better forecasting and budget planning
  - Reducing administrative inefficiencies associated with spot purchasing
  - Supporting value-for-money assessments through competitive tendering
- 5.5. All commissioning activity under the new contract arrangement will be subject to existing financial governance arrangements and procurement

controls.

## **6. CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

- 6.1. The proposed new contract arrangement is designed to have a positive impact on children and young people with SEND by:
- Improving access to appropriate provision: Ensuring that commissioned services meet agreed standards and are tailored to individual needs.
  - Enhancing safeguarding and quality assurance: Introducing clear contractual requirements and monitoring arrangements to protect children and young people.
  - Reducing inequalities: Providing a more consistent and transparent approach to commissioning, so that decisions are fair and based on need rather than availability.
  - Supporting better outcomes: Enabling children and young people to engage in education that promotes inclusion, independence, and preparation for adulthood.
  - Maintaining continuity of support: Transitional arrangements will ensure that existing placements are not disrupted during implementation of the framework.
- 6.2. The contract arrangement aligns with the Council's statutory duties under the Children and Families Act 2014 and reflects the priorities set out in the SENDAP Sufficiency Strategy, ensuring that every child and young person has the opportunity to achieve outcomes that matter to them.

## **7. CLIMATE CHANGE, NATURE RECOVERY AND ENVIRONMENTAL IMPLICATIONS**

- 7.1. The proposed contract arrangement for commissioning unregistered alternative provision does not have any direct environmental implications. It does not involve physical infrastructure, land use changes, or activities that would impact biodiversity or carbon emissions.
- 7.2. However, the Council will encourage providers to adopt environmentally responsible practices where possible, such as:
- Minimising travel by prioritising local delivery models
  - Using sustainable materials and energy-efficient facilities
- 7.3. These considerations will be embedded into the procurement process where appropriate, in line with the Council's commitment to sustainability.

## **8. CONSULTATION WITH SCRUTINY**

The proposals within this report will be shared with Children's scrutiny panel prior to implementation, in line with the Council's governance arrangements. Feedback from Scrutiny will be considered and incorporated where appropriate.

## **9. FINANCIAL IMPLICATIONS**

- 9.1. The procurement is not expected to introduce new financial commitments beyond those already anticipated within existing budgets.
- 9.2. The new contract arrangement will provide a more structured and transparent mechanism for managing spend, supporting improved financial oversight by enabling better forecasting and budget planning, reducing administrative inefficiencies associated with spot purchasing and supporting value-for-money assessments through competitive tendering.

## **10. LEGAL IMPLICATIONS**

- 10.1. The Preliminary Market Consultation and the procurement exercise are governed by the Procurement Act 2023. The Preliminary Market Consultation activity will enable the specification to be developed, in line with the appropriate contractual documentation. Such activity enables the seeking or accepting of advice from independent experts, authorities or from market participants providing it does not distort competition nor breach the requirements for non-discrimination and transparency. The contract is the key governing document through which the resulting relationship will be governed and Legal Services will complete the contractual documentation on award.
- 10.2. The procurement exercise will be conducted so as to comply with the Council's policy and legal obligations, specifically in compliance with the Council's Contract Procedure Rules and the Procurement Act 2023, and supported by relevant officers.
- 10.3. The delegations sought are consistent with an exercise of this nature.
- 10.4. Officers should be cognisant of recent budgetary announcements made by central government in relation to the centralisation of SEND provision and ensure that flexibility exists within any arrangement so as to ensure that Council can adapt to any emerging national policy that may impact on this exercise.

## **11. HUMAN RESOURCES IMPLICATIONS**

There are no direct HR implications arising from the contents of this report.

## **12. WARD IMPLICATIONS**

All wards are likely to be affected.

## **13. BACKGROUND PAPERS**

Equality impact assessment

## **14. CONTACT OFFICER(S)**

Mary Ryan – Head of Commissioning

NO RESTRICTIONS

**COUNCILLOR MARGARET CRACKNELL**

**PORTFOLIO HOLDER FOR CHILDREN AND EDUCATION**