

READING BOROUGH COUNCIL

REPORT BY THE DEPUTY CHIEF EXECUTIVE

TO:	POLICY COMMITTEE		
DATE:	7 MARCH 2022		
TITLE:	BERKSHIRE SENSORY CONSORTIUM SERVICES CONTRACT		
LEAD COUNCILLOR:	CLLR RUTH McEWAN / CLLR LIZ TERRY / CLLR ASHLEY PEARCE	PORTFOLIO:	CORPORATE AND CONSUMER SERVICES/ CHILDREN'S SERVICES/ EDUCATION
SERVICE:	PROCUREMENT & CONTRACTS	WARDS:	BOROUGHWIDE
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Under the Children & Families Act 2014, the Council must carry out the planning and commissioning of services to support children & young people with a SEND diagnosis at a regional level. The Council has historically done so through a jointly commissioned contract delivered by the Berkshire Sensory Services Consortium.
- 1.2 As the requirement for regional commissioning means the local authorities must be party to the subsequent contracts, whilst Brighter Futures for Children can manage the services on the Council's behalf, the Council itself must sign them. The contract cannot be novated to Brighter Futures for Children as has been the case for the majority of contracts for Children's Services.
- 1.3 This report requests approval to enter into the Berkshire Sensory Consortium Services Joint Agreement Contract for an initial term of 3 years, from 2021 to 2024, and provide delegation to the Assistant Director of Procurement & Contracts in consultation with the Lead Member for Education for any subsequent extensions taking the contract up to 5 years in total (to March 2026). This report also requests delegation to the Assistant Director of Procurement & Contracts, in consultation with the Lead Member for Corporate and Consumer Services, the Lead Member for Education and the Assistant Director of Legal & Democratic Services, to create a Shared Services Working Agreement between all Berkshire Unitary Authorities to regularise the current informal shared service arrangement.

2. RECOMMENDED ACTION

It is recommended that Policy Committee:

- 2.1 Authorise the award and completion of the Berkshire Sensory Services Consortium Joint Agreement and contract for 2021 to 2024, and delegate authority to the Assistant Director of Procurement & Contracts in consultation with the Lead Member for Education to activate extensions to 2026; and
- 2.2 Delegate authority to the Assistant Director of Procurement & Contracts, in consultation with the Lead Councillor for Corporate and Consumer Services, the Lead Councillor for Education and the Assistant Director of Legal & Democratic

Services, to create a Shared Services Working Agreement between all Berkshire Unitary Authorities to regularise the current informal Berkshire Sensory Consortium shared service arrangement.

3. BACKGROUND

- 3.1 Under the Children & Families Act 2014 - Part 3 and the Special Educational Needs Code of Practice, it is a requirement for local authorities to consider the strategic planning and commissioning of services for children with low incidence needs at a regional level. For the Council, this is the geographical area of Berkshire and the other local authorities within it.
- 3.2 This requirement to work regionally extends to where children have a SEND diagnosis of sensory impairment. Regional, joint commissioning is needed in relation to assistive technologies and other services to support children with sensory impairments.
- 3.3 Since 2013, the Council has met this requirement through the Berkshire Sensory Consortium, under a joint service contract including all the Berkshire Unitary councils. The lead authority for this agreement was RBWM. Like Reading Borough Council, RBWM deliver their Children's Services through an external company they have delegated duties to, Achieving for Children (AfC). RBWM have subsequently delegated the commissioning for the Berkshire Sensory Consortium Service to AfC. AfC is a Local Authority Controlled Company of RBWM and operates under the same statutory rules as BFFC does to the Council.
- 3.4 The original Berkshire Sensory Consortium Service (BSCS) contract ran from 2013 to 2016 and was then extended to 2020. BSCS operate as the service provider for educational support to children & young people with sensory impairments across all 6 local authorities. BSCS delivers needs assessment, specialist advice & guidance, supportive equipment / assistive technology sourcing and limited specialist teaching and direct support.
- 3.5 As BFFC is not itself a local authority it cannot be party to the joint regional commissioning contract required by the Children & Families Act. However, the Council is able to instruct BFFC in the use of the contract with BSCS. This arrangement has a precedent in adoption, where the Council is legally required to be part of a regional adoption consortium, so the contract with Adopt Thames Valley operates the same way; the Council is party to the contract and pays the provider directly whilst BFFC manages the use of the provider.
- 3.6 Following the end of the prior contract, a new contract has been drafted to commence from 1 April 2021 to 31 March 2024, with potential to extend to 31 March 2026. The new contract was directly awarded to BSCS as part of AfC, with AfC being a Local Authority Controlled Company to which a direct award without a tender is permitted.
- 3.7 The member authorities negotiated the new contract from the beginning of 2021. This was an extended process, with the new terms not being presented as a final draft until 17 June 2021. BSCS continued to deliver services under the previous terms during this period. The new contract was sent to BFFC and the other authorities at the end of June for signature. The new contract matches the previous terms but has not yet been signed, as BFFC was not an eligible signatory. This means the Council currently has no contract for supporting SEND sensory impairments.
- 3.8 BFFC possessed limited staffing capacity from June 2021 to December, and although they took part in the negotiations and sought clarification from AfC regarding the final terms during this period, they did not action the original request for contract signature, nor were they passed to the Council for action. The Council sought a copy of the new contract for the Council's records on 17 January 2022, at which point AfC confirmed it

was not yet signed. It was only at this time that Council officers became aware of the actions required from RBC.

- 3.9 There are no issues identified with the contract itself. The terms and conditions and service specification match the previously agreed terms and fulfil the Council's statutory duties.
- 3.10 However, the method of budgetary control and intra authority ways of working is of concern. The overall budget for sensory services is set annually in March by RBWM as the lead authority. It should be noted that the other 5 authorities, including the Council, have no influence or control over where it is set or how it's spent. RBWM inform the other authorities regarding their required contribution, but there is no consultation regarding it.
- 3.11 RBWM have also delegated their commissioning responsibility, including the setting of the budget to AfC. This is expected as AfC operates as RBWM's Department of Children's Services. The issue is that AfC is also the governing provider of BSCS - meaning that the provider is in effect also in control of setting and managing the budget for the service. Officers are also seeking further detail regarding the nature of the relationship between RBWM, AfC and BSCS, the impact upon the regional service and how increased transparency, particularly in relation to Value for money are best achieved.
- 3.12 Up to 2020, the Council has applied a notional budget of £300,000 per annum for sensory support services, as AFC do not confirm the budget contribution until late January each year. This has been consistently overspent each year. The level of overspend varies, but on average has been approximately £23,000 per annum. The Reading Borough Council contribution for the budget for financial year 2022/23 is £339,259.
- 3.13 It is recommended that the Council sign the joint contract. Provision has been made within BFfC's contract sum to enable them to undertake the management and commissioning of this service on the Council's behalf, and it is recommended this continue. This will ensure the Council's statutory responsibilities are met. It should be noted that the contract doesn't allow early termination, meaning the Council will be committed to 31 March 2024. However, due to the requirement to act regionally, commissioning a replacement will likely require at least 24 months to complete
- 3.14 It is further recommended that officers, in partnership with BFfC, address with RBWM the potential conflict of interest held by AFC and seek to create a Joint Services Agreement to govern how the 6 local authorities work with each other and give greater budgetary control.

4. CONTRIBUTION TO STRATEGIC AIMS

- 4.1 In Spring 2021 the Council refreshed its Corporate Plan, incorporating a number of major change projects under 3 themes:
 - 1. Healthy Environment
 - 2. Thriving Communities
 - 3. Inclusive Growth
- 4.2 This report relates to the delivery of statutory duties, but through the delivery of those duties is intended to support delivery of all of Thriving Communities by supporting SEND children & young people within Reading.

5. ENVIRONMENTAL AND CLIMATE IMPLICATIONS

- 5.1 There are no environmental or climate implications to this report.

6. COMMUNITY ENGAGEMENT AND INFORMATION

- 6.1 No community engagement has been carried out in the creation of or as a result of this report.

7. EQUALITY IMPACT ASSESSMENT

- 7.1 An Equality Impact Assessment (EIA) is not relevant to the report or its recommendations.

8. LEGAL IMPLICATIONS

- 8.1 The Children & Families Act 2014 (Part 3.77) introduced a Code of Practice governing how local authorities should meet SEND needs in children and young people in line with the duties defined by the Act. To adhere to the Code of Practice, the authority must consider strategic planning and commissioning of services for children with low incidence needs across groups of local authorities or at a regional level.

- 8.2 Since 2013, the Council has met this requirement through the Berkshire Sensory Consortium, under a joint service contract including all the Berkshire Unitary councils. The lead authority for this agreement was RBWM. Like Reading Borough Council, RBWM deliver their Children's Services through an external company they have delegated duties to, Achieving for Children (AfC). RBWM have subsequently delegated the commissioning for the Berkshire Sensory Consortium Service to AfC. AfC is a Local Authority Controlled Company of RBWM and operates under the same statutory rules as BFFC does to the Council.

- 8.3 As stated in 3/11, above, the issue is that AfC is also the governing provider of BSCS - meaning that the provider is in effect also in control of setting and managing the budget for the service provided. Officers are seeking further detail regarding the nature of the relationship between RBWM, AfC and BSCS, the impact upon the regional service and how increased transparency, particularly in relation to Value for money are best achieved. In the first instance, it is proposed to create and agree a Shared Services Working Agreement between all Berkshire Unitary Authorities to regularise the current informal Berkshire Sensory Consortium shared service arrangement and provide defined governance to address this.

9. FINANCIAL IMPLICATIONS

- 9.1 Provision has been made within BFFC's contract sum to enable them to undertake the management and commissioning of this service on the Council's behalf, and it is recommended this continue. The Council has applied a notional budget of £300,000 per annum for sensory support services as part of the BFFC contract sum.

10. BACKGROUND PAPERS

- 10.1 None