

## CABINET

21 March 2023

<b>Title:</b> Contract with Barking & Dagenham School Improvement Partnership (BDSIP) 2023/24 – 2025/26	
<b>Report of the Cabinet Member for Educational Attainment and School Improvement</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
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<b>Accountable Director:</b> Jane Hargreaves, Commissioning Director Education	
<b>Accountable Strategic Leadership Director:</b> Elaine Allegretti, Strategic Director, Children and Adults	
<b>Summary:</b> <p>Barking and Dagenham School Improvement Partnership Ltd (BDSIP) is a company limited by guarantee whose members comprise the Council and local schools. It provides services to the borough's schools, which are members, and education data services to the Council to enable the Council to fulfil its statutory functions.</p> <p>BDSIP was launched on 1 April 2018 with the entering into of a five-year contractual arrangement through which BDSIP delivered a range of Council-commissioned services. These were particularly in the areas of School Improvement and Special Educational Needs and/or Disabilities (SEND) and Inclusion support for schools. The current contract ends on 31 March 2023.</p> <p>BDSIP has generally performed well in key areas of commissioned services and has worked closely in partnership with the Council. BDSIP school improvement activity has contributed to the borough's strongest performance to date in the proportion of schools judged 'Good' or 'Outstanding' by Ofsted. Learning has been identified and incorporated through annual reviews of the commissioned services.</p> <p>Uniquely, BDSIP is majority (81%) owned by schools while the Council owns the remaining 19% stake. It is not possible to replicate this relationship-shared endeavour through a purely commercial commissioning arrangement with another company.</p> <p>BDSIP is a TECKAL company and, as such, is exempt from normal Government procurement rules. Therefore, the Council can award a contract directly to BDSIP without the need for competition.</p> <p>This report seeks agreement for a new, initial three-year contract commencing 1 April 2023, with the option of a two-year extension, between the Council and BDSIP for Council-commissioned services.</p>	

## **Recommendation(s)**

The Cabinet is recommended to:

- (i) Agree that the Council proceeds with the direct award of a contract with BDSIP Limited (company no: 11126768) for the services detailed and in accordance with the strategy set out in the report; and
- (ii) Delegate authority to the Commissioning Director, Education, in consultation with the Cabinet Member for Educational Attainment and School Improvement, the Strategic Director, Finance and Investment and the Chief Legal Officer, to conduct the procurement and enter into the contract and all other necessary or ancillary agreements with BDSIP in accordance with the strategy set out in the report.

## **Reason(s)**

Supporting the continued commissioning of BDSIP will assist the Council in achieving the best possible outcomes and opportunities for all children and young people, including the most vulnerable, which is central to the vision in the Borough Manifesto. It will also support delivery of the following strategic priorities, set out in the 'The Barking & Dagenham Corporate Plan 2020- 22': 'Prevention, Independence and Resilience', 'Well Run Organisation' and 'Inclusive Growth'.

Further, BDSIP is expected to contribute significantly to delivery of 'The Barking and Dagenham Best Chance Strategy - Our partnership plan for babies, children, young people and their families - September 2022 – September 2025', and the draft priority areas for the forthcoming Education and Participation Strategic Plan 2023 – 2026 which will support delivery of this strategy.

## **1. Introduction and Background**

- 1.1 BDSIP was launched on 1 April 2018, following extensive consultation with the borough's schools and the Council's Legal, HR and Commercial teams. 35 staff moved from the Council's Education service to BDSIP, mostly via TUPE, with a few secondments.
- 1.2 BDSIP is not a wholly owned Council company. The Council has a 19% share in BDSIP, with schools owning the majority of the company (81%).
- 1.3 The vast majority of the borough's schools are members of BDSIP. The Council is represented on BDSIP's Board and BDSIP representatives attend the Council's twice-yearly Shareholder Panel meetings.
- 1.4 Upon the launch of BDSIP in April 2018, the Council entered into a five-year contractual arrangement through which BDSIP delivered a range of Council-commissioned services to schools.
- 1.5 This contract ends on 31 March 2023, therefore approval for a new contract from 1 April 2023 is sought.

- 1.6 BDSIP was created to provide Barking and Dagenham's 60 schools with high quality support to raise education standards further through sharing proven best practice and enabling schools to design and purchase services with the greatest impact.
- 1.7 BDSIP has generally performed well in key areas of commissioned services and has worked collaboratively with the Council. This has been evidenced through annual reviews of commissioned services, their delivery, impact and lessons learnt. Two of these reviews were facilitated by an external consultant.
- 1.8 Some examples of encouraging performance include:
- With one exception, no school buying BDSIP School Improvement support or Inclusion advice has received an adverse Ofsted outcome;
  - Delivery of effective GCSE support in most secondary schools;
  - Provision of a range of high-quality training;
  - Following visits to Additional Resourced Provision (ARPs) in 2021/22, the identification of a group of ARPs as good practice, to support further development of high-quality ARP provision in the borough. ARPs provide specialist education provision for children and young people with SEND;
  - Delivery of strategic support in Inclusion and SEND, including facilitating networks of Special Educational Needs Coordinators (SENCOs), ARP Leads and Behaviour Leads. For example, BDSIP arranged meetings with the borough's Social, Emotional and Mental Health (SEMH) ARPs, focusing on the 'Thrive' model to support children and young people's wellbeing.
- 1.9 BDSIP has experienced challenges with rebuilding the pool of work experience placements, given the impact on businesses and working patterns of the pandemic. Sourcing work experience opportunities is improving, with BDSIP now working with 70 employers. While this is not a commissioned service, the Council and BDSIP have shared partnership objectives in this area.
- 1.10 BDSIP have shown themselves able to set up new services which are cost effective. The company expects to make a modest surplus at this financial year end, demonstrating its financial viability to-date despite the loss of grant funding (from the Dedicated Schools Grant (DSG)), impact of the pandemic and cost of living crisis.
- 1.11 A further review of BDSIP-commissioned services has recently commenced. This will be led by two experienced Headteachers, seeking views from schools, BDSIP and the Council. The outcomes and learning will inform future delivery and planning.
- 1.12 Looking forward, priorities for the Council's commissioning of BDSIP include:
- Maintaining a shared view with the Council of schools considered vulnerable, so that targeted support can be directed to them;
  - Supporting schools where SEND and Inclusion practice would benefit from further development;
  - Helping to shape and deliver SEND training to schools and ARPs; and
  - Leading and further developing subject-specific 'Improvement Networks' of school leads to strengthen outcomes in these areas.

1.13 Whilst some funding for commissioning BDSIP will reduce in the form of the DSG, it is important that the Council can continue to support BDSIP, as a company that can innovatively support schools and the needs of the Council, to flourish.

## **2. Proposed Procurement Strategy**

### **2.1 Outline specification of the works, goods or services being procured.**

2.1.1 The Council's commissioning specifications for BDSIP will be incorporated into the new contract. There are four commissioning specifications.

#### **2.1.2 School Improvement specification**

Desired outcomes are:

- To support leadership in schools, with the aim that all schools are judged 'Good' or 'Outstanding' by Ofsted; and maintain a shared view of the overall effectiveness of LBBD maintained schools with the Council; and
- To supporting the quality of education in schools, with the aim that Barking and Dagenham meets or exceed national and then London benchmarks in national tests and examinations.

Commissioned services include:

- Supporting schools rated 'Good' and 'Outstanding' by Ofsted
- Supporting schools requiring additional support
- Support with Ofsted inspections
- Developing high calibre leaders for schools
- Support for Governors
- Improving Primary Reading and Writing
- Primary assessment coordination and duties
- Improving outcomes at GCSE
- Improving outcomes at post-16
- Standing Advisory Council on Religious Education (SACRE) duties
- Improving outcomes at end of Early Years Foundation Stage (EYFS) and ensuring all EYFS provision in schools is at least 'Good'

#### **2.1.3 SEND and Inclusion specification**

Desired outcomes are:

- To support quality, standards and outcomes in ARPs, with the aim that all ARPs are judged as 'effective' or better by the Council after their annual compliance and quality assurance visit; and
- To work with the Council to ensure that the number of children and young people who remain in LBBD mainstream schools is maximised through the implementation of best practice in Inclusion and SEND. This includes through:
  - Supporting SENCO- and Inclusion Lead- Network meetings, with a focus on supporting skills and approaches and sharing good practice.

- Working with targeted schools to support the effectiveness of whole-school Inclusion and SEND practice, including a focus on children and young people at risk of exclusion; and
- Ensuring that every school receives an annual Inclusion and SEND quality assurance visit.

#### 2.1.4 **A DSG-funded specification to support education priorities for improvement and development**

Some of the activities in this specification are part of the School Improvement and SEND and Inclusion specifications. Additional outcomes from this specification include:

- To strengthen school to school support, for example, through: further developing a model for coaching and leadership training as professional development; and developing an approach to the sharing of good practice across pedagogy, curriculum and training, especially for the secondary phase.
- To support teacher recruitment and retention, for example, through: marketing the borough through BDSIP's communications and promotional work so that Barking and Dagenham is seen as a highly attractive place to work.
- To procure additional resources to help further improve education standards and education and participation opportunities in the borough.

#### 2.1.5 **Education Data Services**

Commissioned services include:

- Provision of annual examination results and analyses, for example, for EYFS and Key Stages 1, 2, 4 and 5, in addition to a range of other education data and analyses;
- Provision of data dashboards relating to Inclusion, exclusions and absence;
- Submission of statutory and non-statutory data returns, working with schools and the Council as required; and
- Administration of secure education data and management information systems.

2.1.6 In addition to the commissioning specifications, the Council and BDSIP have shared partnership objectives in the areas of supporting 'Positive Destinations for Young People' aged 16+ and 18+ and to support specific 'Health and Wellbeing' initiatives with schools and partners.

## 2.2 **Estimated Contract Value, including the value of any uplift or extension period.**

2.2.1 The estimated contract value is £2,031,475 for the initial three years from 2023/24 to 2025/26. The estimated value of the extension for two years from 2026/27 to 2027/28 is £1,258,456.

## 2.3 **Duration of the contract, including any options for extension.**

2.3.1 Three years from 2023/24 to 2025/26, with the option to extend for a further two years.

**2.4 Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime?**

2.4.1 No. BDSIP is a company exempt from the Public Contract Regulations 2015 (PCR) under Regulation 12, also called a TECKAL company.

**2.5 Recommended procurement procedure and reasons for the recommendation.**

2.5.1 BDSIP is a TECKAL company and therefore exempt from the rules of Government procurement whereby the Council can award a contract directly to BDSIP without the need for competition.

**2.6 The contract delivery methodology and documentation to be adopted.**

2.6.1 Commissioned services, including the value and outcomes expected, are set out in the commissioning specifications. These will be incorporated into the contract.

2.6.2 Please see 'Financial implications' section below for information about how the commissioned services will be funded.

2.6.3 The form of the contract used will be based on the Council's standard terms of conditions.

2.6.4 All commissioned services are supported and monitored through formal performance management arrangements. This includes regular (monthly) contract monitoring meetings with the Commissioning Director Education, senior Education staff, BDSIP's CEO and senior BDSIP staff, supported by detailed quarterly reports from BDSIP.

**2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract.**

2.7.1 The following additional outcomes and efficiencies are expected:

- Further innovation in service delivery due to new and creative partnerships with schools and external providers (including brokering services and online opportunities);
- Increased efficiency, for example, through BDSIP continuing to move away from a model of high fixed staffing costs towards a more flexible model. This allows BDSIP to respond to emerging needs from schools in a more agile way whilst also lowering fixed costs. In light of the cost of living crisis, the company is treating the possibility of schools opting out of buying services as a future risk. In response, BDSIP are considering growth opportunities to enable it to be less dependent on a relatively small number of in-borough schools.
- Increased potential for income generation opportunities through new or creative partnerships and brokering new services, as well as through BDSIP's traded services (for example, traded training to schools).

## **2.8 Criteria against which the tenderers are to be selected and contract is to be awarded**

2.8.1 As the contract for services will be exempt from competition under Regulation 12 of the PCR, BDSIP is exempt, so the contract will not be tendered. The Council still has to bear in mind its 'Best Value' obligations under the Local Government Act 1999.

## **2.9 How the procurement will address and implement the Council's Social Value policies.**

2.9.1 BDSIP is a not-for-profit social enterprise, majority-owned by schools in Barking and Dagenham. BDSIP's focus is on helping to build the best possible future for the borough's young people. The company does this by working directly with young people, for example through BDSIP's careers and work experience programmes, and through the strategic support BDSIP provide to school leadership.

2.9.2 A key area of focus for BDSIP is helping schools to develop genuinely inclusive practice. This plays a crucial role in enabling schools to successfully support more children with additional needs in mainstream settings. As a school-led company, BDSIP aims to be highly responsive to the evolving needs of schools, for example, introducing Speech and Language and counselling services in response to feedback from schools about the needs of the borough's young people.

2.9.3 As a not-for-profit organisation, any surplus which BDSIP makes is reinvested into priority local projects such as the Race and Social Justice programme, which BDSIP invested over £20,000 in during 2022/23.

2.9.4 BDSIP's Careers Lead attends the Council's Social Value Advisory Panel to feed in ideas and develop ways of working.

## **3. Options Appraisal**

### **3.1 Do nothing and cease commissioning BDSIP**

3.1.1 This is not a viable option as the commissioned services either relate to fulfilling some of the Council's statutory responsibilities (for example, supporting schools causing concern) or are shared priorities for the borough (for example, providing high quality and appropriate training for school staff around SEND). Decommissioning BDSIP would leave the Council in breach of some of its responsibilities and would compromise outcomes for some of our most vulnerable pupils (for example, children with SEND). It risks being particularly disruptive and detrimental in the current context in which schools are responding to the impact of the pandemic and supporting families during the cost-of-living crisis.

3.1.2 Further, ceasing the commissioning of BDSIP would have an adverse impact on the ability of the company to provide the range of services that schools need to support their own improvement.

## 3.2 **Commission an alternative provider**

- 3.2.1 This would not be a viable option because it would risk undermining the Council's trust and confidence in BDSIP, including as the Council's preferred provider for education training to schools. Crucially and uniquely, BDSIP is majority (81%) owned by schools and the Council also has a stake (19%). It is not possible to replicate this relationship shared endeavour through a purely commercial commissioning arrangement with another company.

## 4. **Waiver**

- 4.1 Not applicable to this contract.

## 5 **Equalities and other Customer Impact**

- 5.1 An Equalities Impact Assessment screening tool has been completed (Appendix 1) and has found no anticipated negative impacts on pupils with protected characteristics as a result of this contract.
- 5.2 Further, there are commissioned activities which will positively impact on specific protected characteristics, for example, for pupils with SEND and through supporting best practice in school inclusion.

## 6. **Other Considerations and Implications**

### 6.1 **Risk and Risk Management**

- 6.1.1 **Managing the reduction in the DSG (please also see 'Financial implications' section below)** - The Council and BDSIP have agreed the following principles for managing this reduction across BDSIP services:

- Prioritising investment to support key areas and outcomes;
- Supporting the development and introduction of new services, with the intention that these, in the longer term, become traded and self-funding;
- Supporting school-led approaches where practical; and
- Moving away from utilising these funds to support core staffing costs.

- 6.2 **Safeguarding Children** - Services commissioned by the Council from BDSIP include support for Inclusion and SEND, for example, working with schools to strengthen good practice, share best practice and provide training. This will help promote the best outcomes for children and young people with SEND and those most vulnerable. In addition to commissioned services, BDSIP has an agreed objective with the Council to continue to support and embed a Race and Social Justice project with participating schools, which seeks to address inequalities and inequity in some key areas.

- 6.3 **Health Issues** - In addition to commissioned services, BDSIP has an agreed objective with the Council to support specific initiatives with schools and partners which support children and young people's Health and Wellbeing.

- 6.4 **Crime and Disorder Issues** - The desired outcomes of commissioned services to support Inclusion includes working with the Council to ensure that the number of



children and young people who remain in LBBB mainstream schools is maximised through the implementation of Inclusion best practice. In turn, this will promote the safety and wellbeing of children and young people, helping to safeguarding them from exploitation and unsafe or risky behaviours.

## **7. Consultation**

- 7.1 Consultation on the proposals in this report have taken place with relevant Cabinet Members, local schools and the BDSIP CEO and Board.
- 7.2 The proposals were also considered and noted by the Council's Procurement Board on 6 February 2023.

## **8. Corporate Procurement**

Implications completed by: Richard Barrett, Category Manager

- 8.1 The current arrangement with BDSIP ends on 31 March 2023. The paper proposes that a new arrangement will be put in place to cover the period from 1 April 2023 for an initial duration of three years, with the option to extend for a further 2 years.
- 8.2 It has been identified that there are four main commissioning specification areas as detailed below:
  - a) School Improvement Specification
  - b) SEND & Inclusion
  - c) DSG-funded specification to support education priorities for improvement and development
  - d) Education Data Services
- 8.3 Thorough review of the existing arrangement and improvement in the four commissioning specifications, coupled with a suitable contract, will be key to ensuring that the arrangement achieves the required commissioning outcomes while achieving the maximum value achievable from the public funds being utilised.
- 8.4 BDISP will fall under Regulation 12 of the PCR, which exempts such contracts from competition as identified by LBBB Legal. Therefore, if officers are assured that this arrangement has and continues to provide the greatest achievement of outcomes and represents the best value option to the Council, the paper is supported.

## **9. Financial Implications**

Implications completed by: Kofi Adu, Group Finance Manager

- 9.1 The BDSIP contract is funded from various funding sources within Education. A summary of the funding structure is shown below. This contract is not intended to have any adverse financial impact on the Council's General Fund. Any slippages will be covered within the cash envelope shown in the table below.

<b>BDSIP Funding Sources</b>	<b>2023/24</b>	<b>2024/25 Estimated</b>	<b>2025/26 Estimated</b>	<b>2026/27 Estimated</b>	<b>2027/28 Estimated</b>
DSG Commissioning	136,000	108,200	86,560	69,248	55,398
DSG School Improvement	10,000	10,000	10,000	10,000	10,000
SEND /Inclusion	105,000	105,000	105,000	105,000	105,000
SEND / Inclusion Training	25,000	25,000	25,000	25,000	25,000
SEND / Inclusion QA Visits	40,000	40,000	40,000	40,000	40,000
Support Services / Infrastructure	135,364	135,364	135,364	135,364	135,364
SIBG – De-Delegation	150,000	150,000	150,000	150,000	150,000
Early Years Work	45,000	45,000	45,000	45,000	45,000
Education Data Services*	37,500	37,500	37,500	37,500	37,500
Education Data and Software Packages**	19,041	19,041	19,041	19,041	19,041
<b>Total Funding</b>	<b>702,905</b>	<b>675,105</b>	<b>653,465</b>	<b>636,153</b>	<b>622,303</b>

\*This is funded by Children’s Care and Support, with £7.5k p.a. from Education.

\*\*This is funded by Children’s Care and Support. Costs are subject to changes by education data and software providers.

## 10. Legal Implications

Implications completed by Ian Chisnell, Major Projects Solicitor

- 10.1 BDSIP is a not-for-profit company limited by guarantee in which the Council, along with the group of Barking schools, has a membership. The Council is a minority member with one membership out of 57. It is also the Supervising Authority under the School Companies Regulations 2002 (SCR).
- 10.2 Under Regulation 26 the Council has an obligation to monitor the company finances and report if it considers that the company is poorly managed or in danger of becoming insolvent.
- 10.3 As the company is controlled by the Council and the Schools (which are considered contracting authorities under the PCR) with no external involvement and in a similar manner to the control of a public authority’s departments, the award of a contract to BDSIP will fall under Regulation 12 of the PCR, which exempts such contracts from competition.
- 10.4 The Council is a Best Value Authority under the Local Government Act 1999 and must, however, be satisfied that the arrangement is best value. It must also comply with its contract rules which permit direct awards to companies falling under Regulation 12.
- 10.5 In preparing the case for the award the Council must also consider the Public Services (Social Value) Act 2012 which is detailed in the report.

10.6 The Council has a number of relevant powers regarding its involvement in such companies. Section 1 of the Localism Act 2011, the general power of competence (“GPC”) empowers local authorities to do anything that an individual can lawfully do provided that the activity is not expressly prohibited by other legislation. It also has power to act as Supervisory Authority under the SCR.

**Public Background Papers Used in the Preparation of the Report: None**

**List of appendices:**

**Appendix 1: Equality Impact Assessment Screening Tool**