



## CABINET

12 August 2026

**Subject Heading:**

Award of contracts for Ofsted-registered provision

**Cabinet Member:**

Cllr Kevin Gill, Cabinet Member for Children

**ELT Lead:**

Tara Geere

**Report Author and contact details:**

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**Policy context:**

This decision is made in the context of the LA's statutory duty under Section 19 of the Education Act 1996 to arrange appropriate full-time education for children of compulsory school age who would not receive it otherwise. The Children and Families Act 2014 sets out the LA's wider duties in relation to children with SEND, many of whom are represented in alternative provision.

**Financial summary:**

The total value of the three block contracts for Ofsted-registered Alternative Provision running from September 2026 to August 2027 with the option to extend for an additional year is approximately £8.4m, covering 166 places per year across three providers. All expenditure will be met from Havering's allocation of the Dedicated Schools Grant (DSG). No new financial pressures are anticipated as a result of this decision.

**Is this a Key Decision?**

(a) Expenditure or saving (including anticipated income) of £500,000 or more

**When should this matter be reviewed?** July 2027

**Reviewing OSC:** People Overview & Scrutiny Sub Committee

## **Objectives**

People - Supporting our residents to stay safe and well X

Place - A great place to live, work and enjoy X

Resources - Enabling a resident-focused and resilient Council

## **SUMMARY**

### **1.**

**1.1** The purpose of this report is to seek approval to award contracts to three Ofsted-regulated providers of alternative provision that the Council currently use. Two of these providers are multi academy trusts and therefore fall outside the scope of the Procurement Act 2023 (PA23). However, one of the proposed direct awards is to a private school and therefore within the scope of the PA23. Therefore, officers also seek a waiver of the Council's Contract Procedure Rules (CPR) for the award to Koru Independent AP Academy (Academy).

**1.2** These alternative provision places are required to safeguard pupils whilst the Council's long-term procurement approach is fully devised and enacted, which is forecasted to be September 2028. With that in mind, it is crucial the Council is able to award these contracts for the academic year beginning September 2026, to ensure that we are able to meet our Section 19 Education Act 1996 duty.

## **RECOMMENDATIONS**

### **2**

#### **Cabinet is recommended to:**

1. Approve the waiver of the competitive requirements to tender for this opportunity as set out in 2.2 of Schedule 2 of the Council's Contract Procedure Rules.
2. Agree to direct award individual block contracts to Koru Independent Alternative Provision Academy (Koru), The Bridge (Life Education Trust) (The Bridge) and Olive Academy (Olive) to deliver alternative provision on behalf of the Council for the academic year 26/27 with the option to extend for a further year in 27/28, at a total cost of approximately £8.4m for the two years

## **REPORT DETAIL**

### **3**

**3.1** The Council seeks to award three block contracts for the delivery of alternative provision for the academic year 2026/27 with an option extend for a further year to Koru Independent Alternative Provision Academy (approximately 50 places), Olive

Academy (approximately 88 places) and The Bridge, part of the Life Education Trust (approximately 28 places) funded from the Dedicated Schools Grant (DSG).

**3.2** These contracts are essential to the Council fulfilling its statutory duty under Section 19 of the Education Act 1996, which requires local authorities to arrange suitable full-time education for children of compulsory school age who would not otherwise receive it, including those who have been permanently excluded and those with Education, Health and Care Plans (EHCPs).

**3.3** Schools are required to arrange alternative provision from the sixth day of a suspension; for permanent exclusions, the local authority carries this duty. Failure to secure sufficient alternative provision places will leave the Council at risk of being unable to meet this obligation within statutory timeframes. Over-reliance on spot purchasing leaves the Council exposed, as providers can refuse placements and increase prices in response to demand. Spot purchasing could also result in children being placed in provision of unknown or variable quality or not placed at all within the required timeframe.

Out of borough placements compound this further, introducing higher unit costs, increased travel burdens for pupils, and reduced ability for the Council to monitor quality and respond to safeguarding concerns.

**3.4** All three providers are Ofsted-regulated and are currently being used by the Council. They have an established track record of delivering high quality alternative provision to some of our most vulnerable pupils. Historically, all commissioned places have been fully utilised by the end of the academic year, reflecting both the level of need within the borough and the effectiveness of these providers in meeting it. Block contracting on a fixed-place basis ensures that placements can be made immediately as need arises.

**3.5** These contracts are being awarded for a period of one year with the option of an additional year extension. The contracts will be direct awarded in compliance with Schedule 5 paragraph 7 of the Procurement Act 2023, on the grounds that not to do so would cause significant disruption to an established arrangement, to the detriment of vulnerable pupils.

**3.6** Procurement and commissioning officers are currently devising the procurement strategy for 2027/28 onwards, which will be the subject of a separate governance report, but may need to be extended to 2028/2029 due to procurement timelines and the need to carry sufficient pre-market engagement.

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| <b>REASONS AND OPTIONS</b> |
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**4 Reasons for the decision:**

**4.1** The Council has a statutory duty under Section 19 of the Education Act 1996 to ensure that children who are permanently excluded receive suitable full-time education from the sixth day of exclusion. Beyond this, the Council has wider statutory obligations to children with Education, Health and Care Plans (EHCPs) and those with Special Educational Needs and Disabilities (SEND), many of whom require specialist alternative provision to meet the needs specified in their plans under the Children and Families Act 2014.

**4.2** Awarding these contracts now ensures continuity of provision for pupils already placed with these providers, avoiding unnecessary disruption to some of our most vulnerable children at a critical point in their education. It also allows providers to plan and resource their provision effectively for the 2026/27 academic year, giving them the financial certainty they need to recruit and retain staff appropriately. With the option to extend, this certainty can be afforded to them again for 2027/28 should the need arise.

**4.3** Not awarding these contracts would risk the Council being in breach of its statutory duties, being unable to place children within the required timeframes, and potentially exposing itself to increased costs through reliance on unplanned spot purchasing or high transportation costs for out of borough placements. The one plus one-year nature of these contracts reflects the Council's commitment to undertaking a fully compliant procurement ready for September 2027 but also its awareness that, due to tight procurement and governance deadlines, another year may be required. These measures are to ensure no child is left without suitable provision in the interim.

**4.4** To provide assurance regarding value for money and effective use of Alternative Provision (AP), occupancy levels across commissioned provisions are monitored throughout the academic year by the School Admissions, Attendance & Inclusions Service. Whilst vacancies can arise at points during the year due to reintegration, admissions, exclusions and changing pupil circumstances, the overall commissioned model is designed to maintain sufficient capacity to meet fluctuating demand and statutory responsibilities.

**4.5** The Local Authority commissions a range of Alternative Provision (AP) placements to fulfil its statutory responsibilities and ensure that children and young people who are unable to access mainstream education receive suitable education and support.

**4.6** The commissioned provision includes:

- **Day 6 Education Provision** – commissioned through Olive Academies and Koru Independent School, providing education for Havering resident pupils who have been permanently excluded from school, in accordance with the Local Authority's duties under Section 19 of the Education Act 1996.
- **Medical Needs Provision** – commissioned through The Bridge, providing education for children and young people who are unable to attend school due to physical or mental health needs, ensuring the Local Authority meets its responsibilities under Section 19 of the Education Act 1996 to secure suitable full-time education where a pupil would otherwise be without education.

## **AP Occupancy Levels 2025/26**



| <b>Provision</b>          | <b>Sep 25</b> | <b>Oct 25</b> | <b>Nov 25</b> | <b>Dec 25</b> | <b>Jan 26</b> | <b>Feb 26</b> | <b>Mar 26</b> | <b>Apr 26</b> | <b>May 26</b> | <b>Jun 26</b> | <b>Jul 26</b> | <b>Sep 26</b> |
|---------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| <b>Koru (50)</b>          | 24            | 26            | 31            | 34            | 36            | 38            | 39            | 40            | 44            | 46            | 46            | 37            |
| <b>Olive Academy (88)</b> | 27            | 31            | 33            | 36            | 37            | 40            | 43            | 42            | 46            | 50            | 50            | 36            |
| <b>The Bridge (28)</b>    | 9             | 10            | 10            | 10            | 12            | 13            | 18            | 19            | 20            | 21            | 21            | 21            |

### **4.7 Key Observations**

- Occupancy levels increased steadily throughout the academic year across all commissioned providers, reflecting rising demand for Alternative Provision.
- **Olive Academy** reached full occupancy (50 places) by June 2026 and remained at capacity in July 2026.
- **Koru** occupancy almost doubled during the year, increasing from 24 pupils in September 2025 to 46 pupils in July 2026.
- **The Bridge** showed significant growth in demand for medical needs provision, increasing from 9 pupils in September 2025 to 21 pupils by July 2026.
- The number of pupils carried forward into September 2026 demonstrates continuing demand and provides an indication of future capacity requirements.

**4.8** Although occupancy is not expected to remain at 100% throughout the year, maintaining available capacity is essential to enable the Local Authority to respond promptly to statutory duties, including permanent exclusions, pupils unable to access mainstream education due to medical needs, and those requiring urgent intervention to prevent permanent exclusion. Demand for Alternative Provision continues to increase, as shown by the higher number across all three provisions next September compared to the last, and current commissioning arrangements ensure sufficient capacity is available to meet both current and projected need, whilst reducing reliance on higher-cost spot-purchased placements and supporting better value for money.

## **5 Other options considered:**

**5.1** The Council considered three alternative options before recommending the direct award of these block contracts.

**5.2** The first option is to not award the contracts at all. This would risk losing the established relationships and reserved capacity with these three providers, who may not be in a position to hold places for the Council without a contractual commitment.

This would leave the Council without sufficient guaranteed alternative provision to meet its statutory duties and would be likely to result in children not being placed within the required statutory timeframes. This would also mean moving and disrupting children already in situ receiving suitable education.

**5.3** The second option is to rely on spot purchasing. Whilst this would provide some flexibility, it offers no guarantee of availability, particularly at short notice. Spot purchasing also typically attracts higher costs and provides no assurance that suitable places will be available when needed. Given that the Council has historically utilised all commissioned places, spot purchasing alone would be insufficient to meet demand.

**5.4** The third option is to undertake a full competitive procurement now. Whilst this is the Council's long-term intention, there is insufficient time to design and complete a compliant procurement process before the start of the 2026/27 academic year. Not awarding contracts at this stage would risk a gap in provision and disrupt both current placements and the Council's ability to meet its Section 19 duty. A compliant procurement is being developed.

## **IMPLICATIONS AND RISKS**

### **6 Financial implications and risks:**

#### ***Revenue implications***

**6.1** The proposed decision is to award block contracts for 166 Ofsted-regulated Alternative Provision (AP) places for the 2026/27 academic year, with an option to extend for a further year.

**6.2** The total contract value over the potential **two-year term is approximately £8.4m**, with all expenditure to be **funded from the Dedicated Schools Grant (DSG) High Needs Block**.

**6.3** The commissioning of block places provides greater financial certainty and value for money than reliance on spot purchasing arrangements. Securing guaranteed capacity enables the Council to meet its statutory duties while mitigating the risk of higher-cost emergency placements, provider price premiums and increased transport costs associated with out-of-borough provision. Historical utilisation demonstrates that all commissioned places have been fully occupied during the academic year, providing assurance that the contracted capacity reflects established demand.

**6.4** The expenditure associated with these contracts has been incorporated within the existing High Needs Block financial planning assumptions and therefore does not create a new budget pressure.

**6.5** However, it should be recognised that the DSG High Needs Block continues to operate within a structurally challenging funding environment, where increases in demand and the complexity of need have consistently outpaced funding received from the DfE. As a result, the Council continues to carry a significant cumulative DSG deficit, with an in-year forecasted deficit in the region of £44m-£50m during 2026/27.

**6.6** Whilst these contracts do not increase that underlying deficit position, they represent essential expenditure required to discharge the Council's statutory responsibilities under Section 19 of the Education Act 1996. Failure to secure these arrangements would expose the Council to both statutory compliance risks and potentially higher financial costs through unplanned spot purchasing, greater use of independent providers and additional home-to-school transport expenditure.

**6.7** The proposed block arrangements also deliver economies of scale through agreed pricing and reserved capacity with established providers that are integrated within Havering's local SEND and Alternative Provision system.

**6.8** Maintaining these partnerships reduces the likelihood of premium charges that are commonly associated with ad hoc placements and providers operating outside the Council's commissioning framework.

**6.9** The approach is consistent with the Council's wider SEND Reform Plan, which seeks to strengthen local inclusion, expand local provision and reduce reliance on high-cost independent and out-of-borough placements over the medium term.

**6.10** The Reform Plan identifies improved commissioning, investment in local capacity and earlier intervention as key mechanisms for stabilising High Needs expenditure and improving value for money, with a strategic shift towards prevention and locally commissioned provision. The continuation of these block contracts provides an important element of that transition while the Council develops and implements its longer-term procurement and sufficiency strategy.

**6.11** Although future SEND reforms and investment in Inclusion Bases, local specialist provision and enhanced early intervention are expected to reduce demand for higher-cost placements over time, these benefits will be realised progressively. In the interim, maintaining sufficient local alternative provision capacity remains financially prudent and operationally necessary.

### **Capital Implications**

**6.12** There are no capital implications arising from this decision.

## **7 Legal implications and risks:**

**7.1** The Council has a duty under s19 of the Education Act to '*make provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them*'. The proposed award of contracts ensure the Council comply with duty.

**7.2** The Council has the power to award the contracts through section 111 of the Local Government Act 1972, which allows the Council to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of its functions, or through its general power of competence in section 1 of the Localism Act 2011 to do anything that individuals generally may do. There are limitations on the general power of competence, but the limitations do not apply to this decision.

**7.3** The value of each contract ranges between £700k and £1.3m per annum, which individually are above the threshold for light touch services under the Procurement Act 2023 (PA23). Therefore, any award must be compliant with PA23. The proposed contracts are to be awarded in compliance with section 41 and Schedule 5, para 7 PA23.

**7.4** The award must also comply with the Council's Contract Procedure Rules (CPR). The CPR do not permit a direct award in these circumstances therefore officers are seeking a waiver.

**7.5** Prior to the award of the contract, the Council must publish a transparency notice as well as contract award and contract details notices and follow a standstill period.

## **8 Human Resources implications and risks:**

**8.1** The recommendations made in this report do not give rise to any human resources implications or risks.

## **9 Equalities implications and risks:**

**9.1** The decision to award these block contracts for Alternative Provision has a positive equalities impact. The pupils who access alternative provision are among the most vulnerable in the borough and are disproportionately likely to have protected characteristics including disability, and to experience socio-economic disadvantage and poor health and wellbeing. Ensuring that sufficient, high-quality provision is in place directly advances equality of opportunity for these children by enabling them to access education that meets their individual needs.

**9.2** Children placed in alternative provision frequently have Special Educational Needs and Disabilities (SEND), including those with Education, Health and Care Plans. Many are also from disadvantaged socio-economic backgrounds. The block contracts ensure that these children have continuity of access to provision that is tailored to their needs, which mitigates the risk of educational disadvantage being compounded by a gap in provision.

**9.3** Not awarding these contracts would have a disproportionately negative impact on pupils with protected characteristics, particularly those with disabilities and SEND, who are most reliant on specialist alternative provision.

**9.4** Given that this is a one-year contract award to existing providers with an established track record of serving this cohort, and that the decision positively advances equality of opportunity, I would suggest it is not.

**9.5** The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

**9.6** Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

**9.7** The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

**9.8** An EqHIA (Equality and Health Impact Assessment) is usually carried out and on this occasion, this isn't required. Those impacts are outlined above.

**9.9** The Council seeks to ensure equality, inclusion, and dignity for all in all situations.

**9.10** There are not equalities and social inclusion implications and risks associated with this decision

## **10 Health and Wellbeing implications and Risks**

**10.1** Havering Council are committed to protecting and promoting the health and wellbeing of residents.

**10.2** There are no health and wellbeing implications related directly to the recommended decision to waive the Council's contract procedure rules to enable direct award of contracts for the delivery of alternative provision.

**10.3** Ensuring that the necessary contractual arrangements are in place to enable continued delivery of alternative provision will have a positive impact on the health

and wellbeing of some of the borough's most vulnerable children and young people.

**10.4** Children who are permanently excluded or unable to access mainstream education are at significant risk of poor health and wellbeing outcomes. Without suitable alternative provision, they are more likely to experience social isolation, deteriorating mental health, and disengagement from education and wider society.

**10.5** Many of the pupils who access these three providers will have experienced adverse childhood experiences, and a number will have identified SEND needs including Social, Emotional and Mental Health (SEMH) difficulties.

**10.6** Alternative provision ensures that children remain in a structured educational environment, which directly supports their mental health and emotional wellbeing, reduces isolation and provides access to the support networks and professional relationships that are protective measures against further harm. Conversely, not awarding these contracts risks children spending extended periods outside of education, which evidence consistently links to poorer long-term health outcomes, increased risk of involvement in anti-social behaviour, and greater likelihood of economic disadvantage in adulthood.

**10.7** The proposal positively supports the Council's Health and Wellbeing Strategy by addressing wider health determinants, including access to education and reducing the impact of adverse childhood experiences on our most vulnerable residents.

## **11 ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

**11.1** There are no risks related to environmental and climate factors associated with this decision.

### **BACKGROUND PAPERS**

None