

BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan

REPORT OF THE EXECUTIVE DIRECTOR (CHILDREN'S SERVICES) TO CABINET

FUTURE COMMISSIONING OF RESOURCED EDUCATION PROVISION FOR PUPILS WITH SENSORY IMPAIRMENTS

1.0 PURPOSE OF REPORT

- 1.1 To seek Cabinet's approval upon the recommended option for the future commissioning of resourced education provision for pupils with sensory impairments.

2.0 RECOMMENDATIONS

- 2.1 **That Cabinet adopts Option 5 detailed in this report as the preferred method for continuing to meet the educational needs of children with sensory impairments in the Borough, with effect from 7th September 2020.**
- 2.2 **That the Sensory Team's Peripatetic Service to local mainstream schools' for the purpose of supporting the education needs of children with sensory impairments, be reviewed for effectiveness, as part of the quarterly performance and finance reporting framework to Cabinet, for services to children and young people with special educational needs.**

3.0 INTRODUCTION

- 3.1 Until the beginning of the Autumn Term 2019/20, the Council's Education Inclusion Service commissioned resourced provision to support the education needs of up to eight children with visual and hearing impairments via Joseph Locke Primary School. A longstanding arrangement involved Horizon Community College in which it assumed responsibility for co-ordinating and delivering resourced provision to both primary and secondary phases, employing staff to support delivery of the primary provision on the site of Joseph Locke Primary School. However, this arrangement was based on a voluntary agreement between Joseph Locke Primary School and Horizon Community College. Primary phase pupils have remained registered to Joseph Locke School throughout this period.
- 3.2 Prior to its conversion to an academy on 1st June 2019, Horizon Community College gave notice that it was no longer able or willing to carry out its co-ordination and leadership role in relation to resourced education provision for the primary phase. In addition, the leadership at Joseph Locke School also indicated that they were no longer able or willing to directly deliver such provision.

- 3.3 Therefore, in order to ensure the Council's compliance with its statutory duty under Part 3 of the Children and Families Act (2014) and resulting Special Educational Needs and Disability (SEND) Code of Practice and to prevent any breach of the DfE's statutory guidance on making significant changes, such as prescribed alterations to maintained schools, including the alteration of provision for children with special educational needs, the Local Authority obtained a waiver to the Council's Contract Procedure Rules, in order to transfer funding and directly deliver this provision, during the period 1st September 2019 to 31st July 2020.
- 3.4 Issues to Consider
- 3.5 The contract waiver has afforded the Service with an opportunity to review the current situation and the future commissioning of such provision. In considering this, a primary consideration is the current cohort of children with a sensory impairment which is fewer than the commissioned number of 8 placements ranging from the Early Years' Foundation Stage to Year 6 of the National Curriculum.
- 3.6 As well as the small number of children receiving resourced provision, another consideration has been the digital transformation over recent years through which more children are able to access technology aimed at supporting learning and fostering independence where possible. Together with the reforms to the SEND Code of Practice, this has enabled the Council, wherever possible, to meet the special educational needs of pupils with sensory (visual and/or hearing) impairments within their local mainstream school, alongside their peers. This is in accordance with the objectives of our Borough Education Improvement Strategy and the refreshed School Placement and Sufficiency Strategy for children and young people with SEN(D). This is already predominantly the case with visually impaired children.
- 3.7 Enabling more children with sensory impairments to be educated alongside their peers within a mainstream environment will help accelerate the capacity of local schools to meet such needs in the longer term and allow for greater parental choice in choosing a school for their child.
- 3.8 Further, school leaders at Joseph Locke Primary School, together with the Governing Body have reiterated that they will not be able to manage direct delivery of resourced provision for pupils with sensory impairments in the future. Similarly, both Horizon Community College and Hoyland Common Academy Trust have also indicated that they are not able to recommence primary school phase provision.
- 3.10 At the same time, it would be unsustainable for the Local Authority to continue direct delivery for a range of reasons, including the following:
- The low number of current and projected pupils requiring this provision.
 - The current model of provision would require the relatively intensive deployment of resources from both a staffing and funding perspective which, in the current climate, would not represent an efficient use of public money.
 - Supporting pupils with the primary need of a sensory impairment should, in most cases, be met through a requirement upon schools to make '*reasonable adjustments*' in accordance with statutory guidance. Where this is not possible,

the provision of support from local authority school improvement resources should help in building skills and capacity within a broader range of local mainstream schools and would represent greater value for money than a more costly, independent school placement outside of the Borough.

- During 2014, in preparation for 'Future Council' and the business unit model of operation, together with the introduction of SEND reforms as well as a rapid school academisation programme, the Local Authority made a decision to move away from the direct delivery of resourced provision within schools and so, as a result of these developments, our capacity to deliver resourced education provision in the longer term, no longer exists.

4.0 Proposal and Justification

4.1 Options Considered

4.2 To address the issue, five options were formally considered which are outlined below:

Option 1: Co-ordination and Management by Horizon Community College

Advantages of Option 1

- Accumulation of staff expertise could be deployed across both phases of resourced provision, as per previous arrangements.

Disadvantages of Option 1

- Horizon Community College has already indicated that it is no longer able to manage primary phase resourced provision

Option 2: Co-ordination and Management by Joseph Locke Primary School

Advantages of Option 2

- Joseph Locke School is a purpose-built environment and has in-depth knowledge of the Early Years Foundation Stage (EYFS) curriculum, including the tracking of pupils and improving learning outcomes. The School manages its own staff and the setting would provide continuity for the small cohort of children.

Disadvantages of Option 2

- As with Horizon Community College, Joseph Locke School has indicated that it can no longer manage primary phase resourced provision. In addition, it has been determined that, from September 2020, there will be less than 5 children with a hearing impairment who will require access to resourced provision, potentially exposing a risk of non-compliance with statutory obligations.

Option 3: Co-ordination and Management by Another Local School

Advantages of Option 3

- Depending on any interest shown, this Option would provide another school with an opportunity to develop knowledge and expertise in delivering resourced provision.

Disadvantages of Option 3

- There is currently no school in a position to deliver site-based provision and it is felt that the time it would take for another school to develop this capacity would disrupt any continuity of progress already achieved and be detrimental to the emotional wellbeing of the children concerned.

Option 4: Direct Management of Resourced Provision by the Local Authority's Education Inclusion Service

Advantages of Option 4

- This would ensure continuity of progress for the children, particularly since the Central Sensory Team know the children well and help provide input to both core and traded services.

Disadvantages of Option 4

- During 2014, in preparation for 'Future Council' and the business unit model of operation, together with the introduction of SEND reforms as well as a rapid school academisation programme, the Local Authority made a decision to move away from the direct delivery of resourced provision within schools and so, as a result of these developments, our capacity to deliver resourced education provision in the longer term, no longer exists.
- The costs to the Local Authority of maintaining resourced provision to a shrinking cohort of children would be prohibitive.

Option 5: To Decommission Resourced Provision and Enhance Local Authority Peripatetic Provision Via The Central Sensory Team

Advantages of Option 5

- De-commissioning resourced provision would take place in the knowledge that, by 2020, less than 3 children with hearing impairments were likely to require resourced provision. Decommissioning provision would not put an end to the Sensory Team's knowledge of such children and this would be used to good effect as part of the Central Sensory Team's supporting role in helping build and maintain the capacity of local mainstream schools to meet the needs of such children.

- Children with visual and hearing impairments will continue to have their needs met via the local, mainstream school which is closest to their community with continued background support from the Central Sensory Team.
- There should be no direct workforce implications for the Local Authority as the teacher leading resourced provision is currently employed through an agency on an interim basis. The teaching assistants are employed by Hoyland Common Academy Trust (HCAT) and seconded to the SRP under agreement with the council.
- Supporting pupils with the primary need of a sensory impairment should, in most cases, be met through a requirement upon schools to make '*reasonable adjustments*' as part of a '*graduated response*' in accordance with statutory guidance and. Where pupils require additional support and provision, this is organised and brokered through a statutory Education, Health & Care Plan (EHCP). This will ensure that the needs of pupils are accurately assessed, kept up to date and that provision is appropriate to their individual needs, wherever possible in the mainstream school of their choice.

Disadvantages of Option 5

- There is no sensory resourced provision within the Local Authority for any children within the age range between Foundation Stage 1 and Year 6, should this be required in future. However, demand for this type of provision has reduced very significantly in recent years.
- Hearing and visually impaired children who require a full signing environment or more intensive support may still require an alternative, specialist placement under any of the five options.

4.3 Outcomes of the Public Consultation

- 4.4 In order to help inform our proposal concerning the future of education provision for children and young people with sensory impairments, a statutory consultation was conducted at the beginning of this year.
- 4.5 The objective of the consultation was to seek the views of parents and carers' of pupils with a sensory impairment, together with other stakeholders on the option to de-commission resourced provision, previously commissioned via Joseph Locke Primary School with Horizon Community College and currently directly provided by the Local Authority (*Please see Option 5 above*)
- 4.6 The consultation was promoted and conducted via the Council's consultation portal with responses invited by 21st February 2020. Nine people responded to the consultation in which the majority stated that whilst they understood the need for a change in provision, they did not agree with the proposal to enhance Local Authority peripatetic support to schools and that the current model of dedicated resourced provision should continue.
- 4.7 Another respondent to the consultation was the National Deaf Children's Society (NDCS). Again, whilst the NDCS understood the reasons behind the Local

Authority's recommended option, it articulated why its view is that resource-based provision was best and the potential impact upon severe or profoundly deaf pupils' if this did not continue. The NDCS's full response is detailed in Appendix 1 of the report and its recommendations were carefully considered by the Local Authority.

- 4.8 In working with any parents and carers' who are likely to be directly affected by the proposal, the aim has been to assure families that the needs of their children would continue to be met, provision would need to be delivered differently but in a way that responds to the individual needs of their child. This would increase parental choice by more effectively supporting local, mainstream schools to meet need.
- 4.9 An equality impact assessment of the proposed commissioning intention was also conducted with the aim of ensuring that the way forward would not adversely affect the continuing education of the small cohort of children in comparison to their peers.
- 4.10 Taking into consideration the outcome of our recent consultation, including any feedback yielded through other networks and social media, together with internal analysis of the future level of need, the recommended option is for Cabinet to adopt Option 5, namely, to de-commission the current model of resourced provision and for the education needs of this small cohort of children to be met mainly through Local Authority peripatetic provision as part of a graduated approach, based on the complexity of such needs. Subject to Cabinet's approval, this will be effective from the Autumn Term 2020/21.
- 4.11 Summary and Conclusion
- 4.12 Demand for this type of provision is extremely low in the Borough and whilst there is much to acknowledge within the evidence-based response provided, particularly by the National Deaf Children's Society in the current circumstances and on the balance of evidence, a peripatetic support service to local schools would best help meet the needs of this cohort of pupils. In addition, where more complex needs dictate, specialist placements will continue to be offered where this is appropriate and in accordance with statutory responsibilities.
- 4.14 Provision for pupils with SEND will continue to be reviewed for effectiveness in meeting need, in accordance with our statutory responsibility and the aims of the SEND School Placement Sufficiency Strategy.

5.0 CONSIDERATION OF ALTERNATIVE APPROACHES

- 5.1 Cabinet's attention is drawn to the benefits and risks associated with each of the options outlined in Paragraph 4.2 of this report.

6.0 IMPLICATIONS FOR LOCAL PEOPLE/SERVICE USERS

- 6.1 Peripatetic support by the Local Authority's Sensory Team will be provided to all children with a sensory impairment within the current and future cohort where necessary and in accordance with their needs, thereby ensuring consistency and equality of service among all local school clusters in the Borough.

7.0 FINANCIAL IMPLICATIONS

- 7.1 Consultations have taken place with representatives of the Service Director – Finance (S151 Officer).
- 7.2 The Joseph Locke Sensory resource provision is funded by DSG through the high needs budget, which has a projected £5.2m deficit in 20/21. The estimated 2020/21 funding requirement for de-commissioning the resource provision and for enhanced support through the Council's Central Sensory Team is £109k (£135k in 2019/20). The requirement for 20/21 has already been factored in the projected £5.2m DSG deficit. The requirement for 2020/21 has already been factored in the projected £5.2m DSG deficit.

Provision has been determined based on the following assumptions:

1. Based on place (£10k per place) and top up (£7.5k per pupil) funding for 8 pupils for the year till August 2020 (after which the provision will be decommissioned as outlined under option 5);
 2. Includes funding (part year) for increased staffing capacity within the Central Sensory Team's to ensure support to local mainstream schools to meet the needs of children with hearing and visual impairments;
 3. The full year effect / funding requirement for the sensory provision going forward is estimated at **£70k**. It is assumed that any additional funding requirements to meet the needs of such pupils in mainstream schools will be provided / funded through the EHC support plans;
- 7.3 It should be noted that the decision to decommission the provision exposes the Council to the liability of possible redundancy costs under TUPE. In the event that the school staff (x3 learning support) cannot be redeployed within the school the Council would be liable for potential redundancy / pension costs estimated at £68k. This cost will need to be contained and will represent a cost pressure against the centrally retained DSG budget.

8.0 EMPLOYEE IMPLICATIONS

- 8.1 The Lead Teacher is employed through an agency and this arrangement would cease subject to Cabinet's approval of the recommended option. The teaching assistants, having reverted back to the employ of the Council under TUPE are to be retained within the Central Sensory Team to support mainstream schools peripatetically. A review of the Central Sensory Team may be required in the future

9.0 LEGAL IMPLICATIONS

- 9.1 Please see Paragraph 7.3 of the report

10.0 CUSTOMER AND DIGITAL IMPLICATIONS

- 10.1 There are no implications for the current range and mode of provision of Council services emerging through the recommended option in this report.

11.0 COMMUNICATIONS IMPLICATIONS

- 11.1 Subject to Cabinet's approval, the proposed change in the delivery of education provision for children with sensory impairments will be communicated to parents, families and schools in time for the Autumn Term 2020/21.

12.0 CONSULTATIONS

- 12.1 As previously indicated, a statutory consultation was held with the families of children with sensory impairments together with stakeholders.
- 12.2 The Council's Senior Management Team has also been consulted and whilst mindful of the concerns raised by respondents concerning the potential impact upon the attainment and wellbeing of the small cohort of children and taking into account the significant challenges being experienced by the Local Authority across the local SEND system, is supportive of the proposed commissioning intention. However, the Senior Management Team adds that the recommendation be reviewed at an appropriate time to ensure it continues to effectively meet the needs of this cohort of children.

13.0 THE CORPORATE PLAN AND THE COUNCIL'S PERFORMANCE MANAGEMENT FRAMEWORK

- 13.1 The proposal will support Outcomes 6 and 7 within the corporate objective of 'People Achieving Their Potential'. The aim will be to ensure '*Every child attends a good school and is successful in learning at work*' particularly through early intervention and targeted support.
- 13.2 The progress of these children will continue to form part of the quarterly submission of reports to Cabinet on the SEN(D) Performance and Finance framework and the annual reporting of education outcomes in the Borough.

14.0 PROMOTING EQUALITY, DIVERSITY AND SOCIAL INCLUSION

- 14.1 The proposed commissioning intention will continue to improve the potential of a group of children and young people with a protected characteristic, as defined by the Equality Act and Public Sector Equality Duty.
- 14.2 An Equality Impact Assessment has been compiled to formally evaluate the likely impact of the peripatetic service in relation to meeting the needs of the small cohort of children and the proposal is to be reviewed during 2020/21. This assessment is attached as Appendix 2 to this report.

15.0 TACKLING THE IMPACT OF POVERTY

- 15.1 It should be reiterated that there is no intention of ever abandoning provision for children with sensory impairments and that the recommended option in this report is for such provision to be delivered to local mainstream schools via a peripatetic arrangement which will continue to meet the needs of the small cohort of children. This will not deny parents the choice of an independent placement, including out of the area, which will remain part of our Local SEND 'Offer'.

15.2 We will continue to ensure that a special educational need, such as a sensory impairment, does not prevent or constrain a child from achieving their potential. Promoting inclusion and social mobility through the proposal, will enable children and young with a sensory impairment to go on to become more active citizens and benefit from the economic prosperity and increased social capital arising through investment in the Borough's economy and improvements in the long-term health and wellbeing of local communities.

16.0 TACKLING HEALTH INEQUALITIES

16.1 Please see Paragraphs 15.1 and 15.2.

17.0 REDUCTION OF CRIME AND DISORDER

17.1 There are no adverse implications for tackling crime, disorder or anti-social behaviour emerging through this report.

18.0 RISK MANAGEMENT ISSUES

18.1 The proposed commissioning intention will form part of the Borough's refreshed School Placement and Sufficiency Strategy for children and young people with SEN(D). As part of the Strategy's action plan and risk log, the effectiveness of the Peripatetic Service in meeting the needs of the cohort of children with sensory impairments will be reviewed as part of the SEN(D) Performance and Finance Framework and, if necessary, action considered.

19.0 HEALTH, SAFETY AND EMERGENCY RESILIENCE ISSUES

19.1 Subject to Cabinet's approval, the proposed use of the Sensory Team's Peripatetic Service to support, local mainstream schools is anticipated to commence during the Autumn Term. As Cabinet is aware, schools currently remain closed for the majority of their pupils' but they have a prevailing responsibility to support the education and welfare of vulnerable groups of children together with the children of 'key workers' as defined by the Emergency Corona Virus Act and associated guidance.

20.0 COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS

20.1 The recommended option is compatible with the Articles and Protocols of the Convention and promotes the rights of the child through the setting of standards in education.

21.0 CONSERVATION OF BIODIVERSITY

21.1 There are no implications for the local environment, tackling climate change or the conservation of biodiversity arising through this report.

22.0 GLOSSARY

22.1 None, applicable.

23.0 LIST OF APPENDICES

23.1 Appendix 1: Barnsley Metropolitan Borough Council Statutory Consultation on the Future Commissioning Intention for Resourced Education Provision: Response by the National Deaf Children's Society.

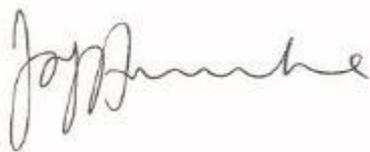
Appendix 2: Future Commissioning Intention for Resourced Education Provision: Initial Equality Impact Assessment

24.0 BACKGROUND PAPERS

24.1 If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made

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Financial Implications/Consultation



Joshua Amahwe (06/05/2020)