

BARNSELY METROPOLITAN BOROUGH COUNCIL

REPORT OF THE: EXECUTIVE DIRECTOR CHILDREN'S SERVICES

TITLE: Post-16 education consultation for young people with Education, Health and Care Plans

REPORT TO:	CABINET
Date of Meeting	25 January 2023
Cabinet Member Portfolio	Children's Services
Key Decision	Yes
Public or Private	Public

Purpose of report

To provide Cabinet with feedback and recommendations from the recent review and consultation of Further Education (FE) for young people with Education, Health and Care Plans (EHCPs). The consultation took place between 7th October 2022 to 4th November 2022.

The consultation proposed a change to practice that would result in the amount of FE young people with EHCP's receive be based on their individual educational needs, rather than the setting they attend.

Council Plan priority

Health Barnsley
Learning Barnsley
Growing Barnsley

Recommendations

That Cabinet approves the following:

- 1. Change to practice so that the amount of education a young person with an EHCP receives in FE is based on their individual educational needs.**
- 2. That implementation be delayed from September 2023 until September 2024 in response to the consultation.**
- 3. Development of the Post-16 five-day offer, should be finalised in September 2023 and implemented for September 2024.**

1. INTRODUCTION

- 1.1 Barnsley Council has carried out a consultation with stakeholders regarding a change to commissioning practice of FE for young people with EHCPs. The consultation ran from 7th October 2022 until 4th November 2022.
- 1.2 The consultation proposed all young people with EHCPs receive the average full-time FE hours (equivalent of 600 hours per academic year) with any increase above this being based on individual educational need, rather than it being dependent on the setting they attend.

Legislation and Funding Regulations

- 1.3 FE caters for young people aged 16-19 year and up to 25 years for young people with an EHCP. The Department for Education (DfE) states the average full-time study programme in FE is 600 hours per academic year. This is the equivalent of just under 16 hours per week, or three school days. The Education, Skills and Funding Agency (ESFA) fund FE based on the amount of hours which providers plan for their learners. Their maximum funding band is band 5 (excluding T-Levels), which for 2023/24 stipulates a minimum of 580 hours (see Appendix 1).
- 1.4 All Barnsley young people with EHCPs attending mainstream FE settings on a full-time basis receive between 580 and 600 hours. For those in specialist FE settings, the majority receive between 580 and 600 hours, although some receive the equivalent of five-days per week. This isn't dependent on individual educational needs but instead the setting they attend. This results in inequalities when commissioning education for young people with EHCPs.
- 1.5 There is a need for a five-day offer in Post-16 education for a small proportion of young people. In most cases a five-day offer is required to meet health and/or care needs, alongside educational needs. This is identified in the SEND Code of Practice (2015) that states "*Local authorities should consider the need to provide a full package of provision and support across education, health and care that covers five days a week, where that is appropriate to meet the young person's needs*" (8.39).
- 1.6 For those attending specialist education settings five-days a week, the ESFA's High Needs Funding operational guide for 2023/24 explains this frequently consists of integrated education, health and care provision. Under education funding regulations for young people with EHCPs "*The High Needs Block may not be used to meet non-educational costs*", such as health and care provision.
- 1.7 Implementing the recommendations within this report may result in a reduction in the amount of time commissioned by education for those receiving five-days a week provision. However, it will strengthen joint commissioning between education, health and care and the accountabilities of each commissioning partner. This in turn will enhance a person-centred approach in meeting the holistic needs and outcomes of young people as they prepare for adulthood.

Consultation feedback

- 1.8 From the online survey, 71% of respondents agreed the amount of time in FE should be based on 'individual educational needs'. However, some responses stated the holistic complexities of their child/children required five-days provision post-16. Of the 29% who stated it should be based on 'the education setting attended', responses included the routine and structure of attending the same setting as important for their child/children.
- 1.9 With regards to the impact which the change to practice would have on families, responses included parents/carers feeling they would need to reduce their hours at work or give up work altogether as they felt their caring commitments would increase as a result. Disruption to young people's routines, potential increased isolation, ability to develop and maintain friendships, transitions and impacts to mental health and wellbeing of family members and young people were cited. A lack of capacity and other appropriate options/activities that would/could sit alongside education to make a five-day offer were also raised.

Evaluation

- 1.10 From the feedback collated during the consultation period, some parents and carers were concerned the proposed change to practice was an attempt to take something away. This is not the case and is an opportunity for education to align itself with the relevant legislation and funding regulations, whilst improving joint commissioning across education, health and care and the accountabilities of each partner in meeting young people's needs.
- 1.11 Health and care partners have the ability to commission health and care provision provided by an education setting that offers integrated education, health and care. However, the SEND Code of Practice (2015) also states where a five-day offer is considered as required by the LA that this may include time at other settings and in other provision. Should the recommendations within this report be approved it will be important for education, health and care to work closely together with those young people, their parents and carers, who may need additional provision and support across five-days a week. This will support their transitions to Post-16 provision and their preparation for adulthood.
- 1.12 Feedback collated has informed the recommendations in this report. Whilst it is considered the change in practice to the commissioning of education is required, it is proposed this is delayed until September 2024, instead of September 2023. This will enable an appropriate timeline to work closely with young people, parents/carers, other stakeholders and commissioning partners to develop the five-day offer across education, health and care in meeting the holistic needs of young people with EHCPs Post-16.

2. PROPOSAL

2.1 Recommendations

For Cabinet to approve:

- **The change to practice so that the amount of education a young person with an EHCP receives in FE is based on their individual educational needs. However, rather than implementation for September 2023, this be delayed until September 2024**

The proposed change to practice would ensure consistency and equality in the commissioning of FE for young people with EHCPs, whilst aligning with relevant legislation and funding regulations.

- **Development of the Post-16 five-day offer, to be developed by September 2023 and implemented for September 2024**

Commissioning partners (including young people and parent/carer co-production) collaborate to produce and publish a post-16 five-day offer on the Local Offer. To include eligibility criteria, commissioning accountabilities and practices, how to access assessments, personal budget information, provision and services available through the different commissioning partners. Ready for publication September 2023, implementation 2024.

The development and implementation of a Post-16 five-day offer would provide clear information for young people, parents and carers as they plan transitions to Post-16.

3.0 IMPLICATIONS OF THE DECISION

3.1 Financial and Risk

3.2 Consultations have taken place with representatives of the Service Director - Finance (S151 Officer).

3.3 There would be an expectation for the Council and the Barnsley Place ICB to meet the needs of young people who require more provision / support beyond the average full-time education Post-16 (i.e. fill the gap). Costs will be based on the individual needs of learners and will be jointly agreed across education, health and care.

3.4 Legal

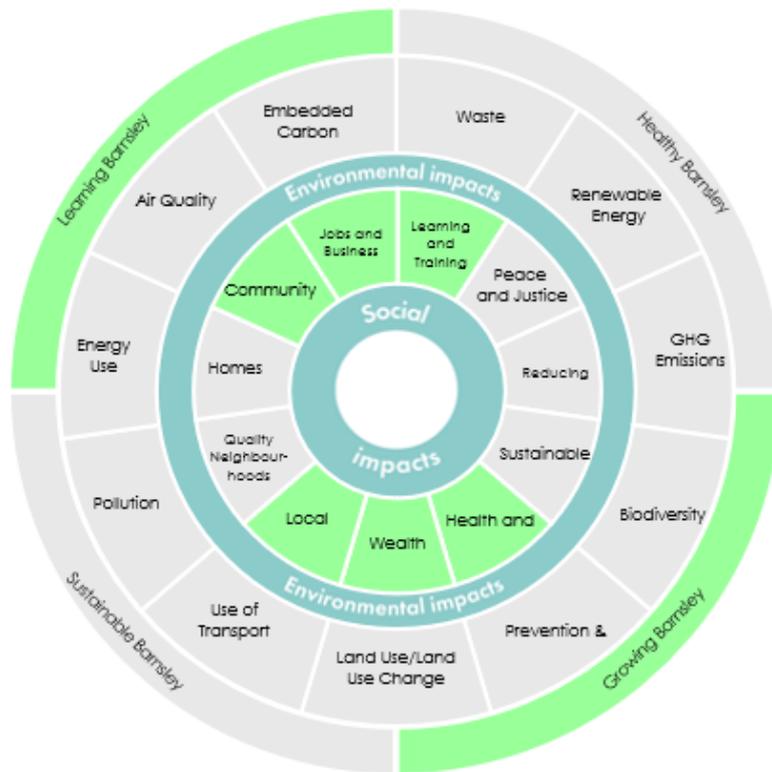
There are no legal implications as a result of this report.

3.5 Equality

A full EIA has been completed and submitted as Appendix 2 to this report.

3.6 Sustainability

Please see decision-making wheel below:



It is envisaged there will be positive benefits to approval and implementation of the recommendations. This includes increasing sufficiency of specialist in Borough E&T places for young people with EHCPs, reducing reliance on out of Borough settings and enabling young people to be educated in their local communities.

By strengthening joint commissioning Post-16 across education, health and care, it is envisaged there will be improved outcomes holistically for young people, strengthening their preparation for adulthood.

3.7 Employee

There are no direct employee implications as a result of the recommendations.

3.8 Communications

A comprehensive communications plan was implemented to ensure all appropriate stakeholders were made aware of the consultation, how to find out further information and have their say. This included the use of the Local Offer, social media and targeted letters, emails and phone calls.

4. CONSULTATION

- 4.1 A formal consultation took place between 7th October and 4th November 2022. During this period young people, parents/carers, education providers, MPs, Councillors, Barnsley Special Educational Needs and Disabilities Information, Advisory and Support Service (SENDIASS) Barnsley SEND Parent and Carer Alliance, commissioning partners (children's and adult's social care and health),

EHC Team and Targeted Information Advice & Guidance team (TIAG) have been consulted.

- 4.2 All stakeholders were made aware of the consultation via a comprehensive communications plan, with a range of drop-in sessions, online survey, emails and telephone calls used as methods to collate varying stakeholders' views and opinions.
- 4.3 There were 37 responses to the online survey. Of these, 2 were young people, 33 parents/carers, 1 education institution and 1 other. In total, 16 parent/carers and 2 young people attended drop-in/information sessions. Feedback was collated via telephone with 4 parents/carers. An all members briefing with Councillors took place.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 The alternative option to the recommendation/s are for education to continue to fund five-day provision post-16. However, this is not aligned with relevant legislation and funding regulations and risks the ability to progress towards a sustainable model in meeting the educational needs of children and young people with EHCPs.

6. REASONS FOR RECOMMENDATIONS

- 6.1 Outlined within the report

7. GLOSSARY

DfE = Department for Education

DSG = Designated Schools Grant

E&T = Education & Training

EHCP = Education, Health and Care Plan

ESFA = Education, Skills and Funding Agency

FE = Further Education

HNB = High Needs Block

LA = Local Authority

SEND = Special Educational Needs and/or Disabilities

TIAG = Targeted Information, Advice and Guidance

8. LIST OF APPENDICES

Appendix 1: ESFA Element 1 funding for FE Study Programmes (based on hours)

Appendix 2: Post 16 Education Provision for Young People with EHCPs (September 2024) Equality Impact Assessment

9. BACKGROUND PAPERS

Children and Families Act (2014)

High Needs Funding: 2023 to 2024 operational guide, ESFA (updated 17 October 2022)

Funding guidance for young people 2022 to 2023, ESFA (updated July 2022)

16 to 19 funding: information for 2022 to 2023, ESFA (updated 17 December 2021)

SEND Code of Practice (2015)

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

10. REPORT SIGN OFF

Financial consultation & sign off	Senior Financial Services officer consulted and date <i>Joshua Amahwe (07/12/22)</i>
Legal consultation & sign off	Legal Services officer consulted and date <i>Jason Field 7/12/22</i>

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Post: Projects & Contracts Manager

National funding rate for students funded via the 16 to 19 funding formula

Table 1

Band (study programmes excluding T levels)	Annual planned hours	Students	National funding rate per student
5	580+ hours	16- and 17-year-olds and students aged 18 and over with high needs	£4,542
4a	485+ hours	students aged 18 and over who are not high needs	£3,757
4b	485 to 579 hours	16- and 17-year-olds and students aged 18 and over with high needs	£3,757
3	385 to 484 hours	all students	£3,056
2	300 to 384 hours	all students	£2,416
1	up to 299 hours	all students	£4,542 proportion of band 5

(Source: [16 to 19 funding: information for 2022 to 2023, ESFA](#))