



Children, Education, Libraries and Safeguarding Committee

16th July 2015

Title	Future provision of specialist places for children and young people with Special Educational Needs and Disabilities.
Report of	Commissioning Director, Children and Young People and Director of Children's Services
Wards	All
Status	Public
Enclosures	Appendix A – Provision for Children and Young People with Special Educational Needs: Planning to Meet Future Needs. Discussion Document for Headteachers.
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Summary

At its meeting on the 9th March 2015, the Children, Education, Libraries and Safeguarding Committee considered a report on the future requirements of pupils with special educational needs together with a proposed schedule for consultation with headteachers, governors and other stakeholders regarding the future pattern of provision and its governance.

The Committee authorised preliminary consultation with headteachers on a range of options set out in the paper, with the outcome of the consultation to be reported back to Committee ahead of any statutory consultation. This report sets out the results of the preliminary consultation with headteachers of Special Schools and of mainstream schools with Additionally Resourced Provision. Appendix A contains a detailed discussion paper on future provision which has formed the basis for subsequent wider discussion with all headteachers. An update will be provided to the committee on the feedback from this further consultation with all headteachers which is taking place between 17 June and 10

July.

The report seeks the Committee's initial comments and views on the issues and options described in the paper. A further report will be brought to the committee in September, with specific proposals for the development of specialist provision as a basis for consultation and it is then proposed to undertake statutory consultation on those proposals with schools and other stakeholders in the Autumn term 2015, in line with the requirements of Section 27 of the Children and Families Act 2014.

Recommendations

- 1. That the Committee note and comment on the discussion document (Appendix A) and the proposed options set out in paragraph 1.6.**
- 2. That the Committee note that a further report will be provided to a future meeting with detailed proposals for the purposes of wider consultation.**

1. WHY THIS REPORT IS NEEDED

- 1.1 Section 27 of the Children and Families Act 2014 requires local authorities to keep under review their education, training and social care provision for children and young people with special educational needs and disabilities (SEND). In exercising this function, the local authority must consult a range of partners and children and young people with SEND and their parents.
- 1.2 At its meeting on the 9th March 2015, the Children, Education, Libraries and Safeguarding Committee considered the future requirements of pupils with special educational needs together with a proposed schedule for consultation with headteachers, governors and other stakeholders regarding the future pattern of provision and its governance.
- 1.3 The preliminary consultation with headteachers of Special Schools and of mainstream schools with Additionally Resourced Provision led to the following initial conclusions:
 - It is important to maintain the current high level of inclusion, with nearly 60% of children with statements of SEN/EHCPs being educated in mainstream schools. This reflects parental preferences and enables an appropriate level of resources to be allocated to schools.
 - The support from the Early Years Inclusion fund should be reviewed on a termly basis and be continued where it is appropriate, rather than being time limited as at present. This should achieve the objective that children's special educational needs are picked up early and support is quickly and routinely put in place as set out in Barnet's Inclusion policy.

- The provision within ARPs (Additionally Resourced Provision) should be re-commissioned, with clear specifications for the offer and exemplar student profiles to support admission decisions.
 - The model for commissioning therapies should be reconsidered in the light of schools' preferences.
 - A minimum of 3 additional primary and 8 secondary SEN class bases will be required. More detail on the options to deliver these is given in Section 5.2 of this report.
- 1.4 As reported in the March committee report, it has been proposed that the Oak Hill ARP is linked to the Pavilion Pupil Referral Unit (PRU) through a Multi-Academy Trust (MAT) to strengthen the local continuum of provision for children and young people with special educational needs in the area of social, emotional and mental health needs. Work on developing this option has continued. Oak Hill ARP is part of Mill Hill County High School, which is an academy. The Council is working with Mill Hill in order to seek consent from the Department for Education to set up Oak Hill ARP as a separate special academy, potentially under a new multi academy trust. No formal decisions have been made in relation to this proposal by either the school or the Department for Education.
- 1.5 Appendix A is a discussion document, which contains a summary of future needs of pupils with SEND. The document was developed in collaboration with a small group of headteachers from Barnet's special schools and headteachers of mainstream schools with specialist on-site provision for pupils with SEND.
- 1.6 In the course of the discussions with headteachers, three potential options for providing the additional places required have been developed and these are currently the subject of discussion:
- *Option A: a new all-age ASD School. This could involve seeking proposals to establish a new academy. The proposals and choice of provider would be approved by the Secretary of State for Education.*
 - *Option B: a new Special School Sixth Form Centre and new Primary ARPs. The sixth form proposal would be to extend the provision of an existing Special School by developing a separate sixth form centre. New ARPs could be developed at maintained schools or academies.*
 - *Option C: new ARP Provisions to meet the whole of the additional need requirement*
- 1.7 In addition to the preliminary consultation with head teachers as referred to in paragraph 1.3, this document was distributed to all schools on 17th June and responses were requested by 10th July. The outcome of any responses will be summarised in an appendix to this report, which will be circulated to members of the Committee on 13 July,
- 1.8 A further report with specific proposals for developing specialist provision for children and young people with special educational needs and disabilities will

be presented to the Committee in September 2015, along with a proposal to begin statutory consultation on those proposals with schools and other stakeholders in the Autumn term 2015, in line with the requirements of Section 27 of the Children and Families Act 2014. If any proposals involve prescribed changes to maintained schools, requiring consultation and/or the publication of statutory proposals, this will also be set out in this report. A report on the outcome of that consultation and with recommendations for the development of specialist provision for children and young people with special educational needs and disabilities will be submitted to the Committee in January 2016.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Council has a statutory duty under Section 27 of the Children and Families Act 2014 to keep under review its special educational provision and social care provision, consulting a range of partners and children, young people and parents.. It also has a wider statutory duty under the Education Act 1996 to ensure sufficient school places are available. The recommendations in this report will inform future decisions to enable the council to fulfil this duty through to 2019/20.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Council has a statutory duty to provide a school place for all children, including those with special educational needs. Given the demographic pressures facing the Council over this period, the alternative to expanding specialist provision would be to commission more places in the Non-Maintained and Independent Special School sectors, which would have a significant negative impact on the 'Schools Budget' (funded from the Direct Schools Grant) and on the SEN Transport budget, which is funded from the council's general fund. There is a presumption in favour of mainstream education for children and young people with SEND and the Council should consider how it can meet the needs of the majority of children and young people within its mainstream sector.

4. POST DECISION IMPLEMENTATION

- 4.1 The proposals to meet the future needs of pupil with SEND will be subject to wider consultation that will involve all schools along with other agencies, local voluntary sector partners and, importantly, children and young people with SEND and their parents.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The project complements the direction of the council's 2013-16 Corporate Plan, which prioritises creating better life chances for children and young people

across the borough, in particular for those with special educational needs or disabilities. The Council is committed to offering personalised support to these young people to enable them to achieve better life outcomes.

5.1.2 The Children and Young People Plan 2013-16 further outlines the ways in which the Council will ensure that children and young people with SEN have access to suitable provision to enable them to be able to achieve their potential, from support in early years provision through to a positive transition into adulthood.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 The capital requirements were reported to the Children's, Education, Libraries and Safeguarding Committee on 15th September 2014. At that early stage, it was estimated that the capital requirement to provide an additional 38 Primary places and an additional 71 secondary places for SEN between 2015/16 and 2019/20 was approximately £12 million. This was based on option C as set out above, namely providing the additional places through the establishment of a number of two or three class units on sites of mainstream schools.

5.2.3 Options A and B would require additional capital resources, possibly up to £30 million. There are possibilities through the Free School route, of drawing in central government funding to support the feasibility of these options. Other avenues of funding, such as Basic Need grant, are also being explored.

5.2.4 It should be noted that Options A and B are more cost efficient in revenue terms as the unit costs in Special Schools benefit from the economies of scale of larger units.

5.2.5 The future needs for the SEMH/PRU provision in Oak Hill and Pavilion will also require capital investment. A bid has been submitted under the Priority Schools Building Programme for building improvements for the Pavilion PRU. Capital investment is required at Oak Hill, estimated to be in the region of £500k, as part of the development plan for the new Multi-Academy Trust. Any requirement over and above capital monies already identified in the capital programme (£250k) will form part of the annual capital programme planning for the council that will be considered by the Assets, Regeneration and Growth Committee.

5.3 Legal and Constitutional References

5.3.1 Under the Council's Constitution, functions within the Terms of Reference (Annex A) for the Children's Education, Libraries and Safeguarding Committee responsibility include:

- planning the adequate provision of school places in the Borough
- investment in educational infrastructure to meet the needs of the Borough's learners

- to be responsible for those powers, duties and functions of the Council in relation to Children's Services (including schools)
- to be responsible for those powers, duties and functions of the Council in relation to Children's Services (including schools).

5.3.2 The Council has a statutory duty under the Education Act 1996 to ensure the provision of sufficient schools for primary and secondary education in their area. Under s.14 of the Education Act 1996, a local authority shall secure that sufficient schools for providing primary and secondary education are available in their area. Sufficient means sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. In meeting this duty, a local authority must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.

5.3.3 The Children and Families Act 2014 requires local authorities to keep their educational, training and social provision for children and young people with SEN under review, to ensure integration between these provisions and to promote wellbeing and improve quality of provision for children and young people with SEND.

5.3.4 State funded schools are split into schools maintained by the local authority and those directly funded by Central Government. The former are split into a number of categories. The latter encompass academies and free schools (which are academies which did not convert from a maintained school). Academies can provide primary, secondary and alternative provision education. For maintained schools, there are prescribed requirements in order to make specific alterations. This includes expanding existing schools to add specialist resource units. The requirements are set out in the Education and Inspections Act 2006 and associated regulations. Academies do not have to follow the same requirements in order to expand, but are expected to seek the approval of the Secretary of State.

5.3.5 Section 6A of the Education and Inspections Act 2006 requires that local authorities seek proposals for the establishment of an academy if they think that a new school is required in their area. There are only limited circumstances when a local authority will be able to publish proposals to establish a new maintained school.

5.3.6 The Council must ensure it meets its public law duties when making decisions, including meeting its public sector equality duty. It must consider all relevant information, disregard irrelevant information, act in accordance with the statutory requirements and make its decision in a fair and transparent manner.

5.4 Risk Management

5.4.1 All pupil place planning is based on pupil projections and there is a risk that the projections are inaccurate. There is a risk that the needs of groups of children change over time. The development of the strategy for future provision will be developed to promote flexibility.

5.4.2 Following the extensive guidance and comprehensive legal framework for the development of special educational provision will minimise the risk for any procedural oversights. Full consultation and analysis of data with other statutory services will minimise the risk of developing unnecessary or unsuitable provision.

5.5 Equalities and Diversity

5.5.1 Ensuring a high quality education offer supports the progress of all children and young people including those with additional needs or at risk of underachievement, for example, children with additional learning needs or young people with social emotional and mental health difficulties. By reshaping and investing in new provision for children with special educational needs and aiming to retain Barnet's diverse educational offer, the council is investing to ensure that Barnet remains a popular place for families to live and study.

5.5.2 A full EqIA will be completed following consultation and details of any impact of the proposals will be fed back to the committee when future decision making is required.

5.6 Consultation and Engagement

5.6.1 Schools are engaged with the strategic approach to planning specialist places through a headteacher stakeholder group which is considering this issue. In addition, regular briefings are given through the termly Director's meetings with headteachers and chairs of governors.

5.6.2 Parents and other stakeholders will be consulted in the autumn term 2015 on the options for future provision that will be developed in the summer term through discussions with headteachers. The statutory framework for consultation on the development and review of specialist provision (explained above) will guide a coherent consultation process that enables stakeholders and children and young people to participate directly in the process.

Staff and parents of the Oak Hill ARP and the Pavilion PRU and the Governing Body/Local Management Committee responsible for their governance will be consulted once firm proposals are developed.

6 BACKGROUND PAPERS

- 6.1 Item 10, Preparing to Meet Future Need for Children with Special Educational Needs, Children, Education, Libraries and Safeguarding Committee, 9th March 2015