

## SCHOOLS FORUM - 16 OCTOBER 2014

<b>Title of paper:</b>	De-delegation of funding for the Behaviour Support Team (BST)
<b>Director(s)/ Corporate Director(s):</b>	Alison Michalska, Corporate Director for Children and Adults
<b>Report author(s) and contact details:</b>	Trish Haw, Behaviour Support Team Leader Tel: 0115 8762433 Email: <a href="mailto:trish.haw@nottinghamcity.gov.uk">trish.haw@nottinghamcity.gov.uk</a>
<b>Other colleagues who have provided input:</b>	Julia Holmes, Finance Analyst, Children and Families Tom Stevens, Service Redesign Consultant Jon Ludford-Thomas, Senior Solicitor Legal Services
<b>Summary</b>	
<p>New school funding arrangements came in from April 2013 meaning that BST services that were funded centrally must form part of the school formula. However this funding can continue to be retained centrally on behalf of maintained schools if de-delegation is agreed and approval of the de-delegation for the BST services is required for maintained mainstream school sites to enable the Local Authority (LA) to deliver their statutory obligations.</p> <p>Schools Forum is also being requested to approve an underwrite from the Dedicated Schools Grant (DSG) Statutory School Reserve (SSR) for the continuation of BST non-statutory functions. In the event that Schools Forum does not support the continuation of funding, the likely impact will be reduced protection around safeguarding, reduced support around implementation of new Special Educational Needs (SEN) processes (Education, Health and Care Plan (EHCP) and High Level Needs) and an increase in exclusion because there would be significant workforce implications which include potential employment / contractual obligations and costs and risks to the authority, taking into account appropriate timelines, and the authority would also need to consider potential exit payments of the affected post holders.</p>	
<b>Recommendation(s):</b>	
<b>1</b>	For maintained mainstream primary and secondary schools to approve the de-delegation of funding for the statutory services provided by the BST at a total lump sum of £2,343 from maintained schools and £42.95 per eligible free school meal pupil, at a total cost of £273,511: (a) maintained mainstream primary schools - £93,720 and £157,777 - total £251,497; (b) maintained mainstream secondary schools - £2,343 and £19,671 - total £22,014.
<b>2</b>	For maintained mainstream primary and secondary schools to approve an underwrite from the DSG SSR for the non-statutory services provided by the BST at a total cost of £106,272, which was agreed in principle last year: This will require both the primary and secondary phases to vote together.

### **1. REASONS FOR RECOMMENDATIONS**

- 1.1 If de-delegation is approved the work undertaken will enable BST to address its legal and statutory responsibilities, without charge, to maintained schools by working to the following legislation:
- Children and Families Act 2014;
  - SEN Legislation 2014;
  - SEN Code of Practice (2014);
  - Special Educational Needs and Difficulties (SEND) tribunals;

- The Equality Act (2010) - access to the curriculum;
- The National Award for SEN Co-ordination (2009);
- Exclusions School Discipline Regulations: Education Act (2012);
- School Attendance (Education Act 1996) and amendments 2010;
- Admissions - Schools Admissions Code 2012 (Education Act 1996);
- Ofsted Framework Sept 2012 (amended 2014)

1.2 The activities underpinning and supporting the legal framework will include:

- prioritising children and young people:
  - at risk of exclusion;
  - high need Early Years and Key Stage 1 pupils;
  - pupils where safeguarding is an issue;
  - looked after children and young people;
  - pupils presenting significant health and safety risks;
  - pupils with a statement/EHCP where identified need is behaviour, social emotional and/or mental health;
  - pupils transitioning between key stages;
- personalising support for the children with the most complex needs;
- providing bespoke training, assessment and advice to strengthen pupil placements;
- multi-agency input around assessments and advice for children and young people who have recently moved into the authority and have SEN or a disability;
- providing direct support for 'schools causing concern';
- capacity building amongst school staff to meet the needs of children and young people with SEN;
- ensuring all policies are non-discriminatory (e.g. safeguarding, anti-bullying, SEN, and disability access);
- contribution to the strategic policy and practice supporting the local authority in meeting the needs of vulnerable children and young people and their families;
- allocating resources for high level needs SEN pupils;
- actions and contribution to the Common Assessment Framework (CAF) process;
- contributing to all SEN and statutory assessment processes;
- EHCPs;
- supporting and advice regarding risk assessment support for pupils presenting health and safety risks due to behaviour;
- delivering actions from Secondary and Primary Fair Access Panels (FAP).

1.3 De-delegation for 2015/16 will also ensure that the BST can continue to be retained, thereby providing access to additional traded services over and above the statutory responsibilities. These services will include:

- inset training;
- pupil support – personalised programmes;
- Play Therapy/special play;
- targeted small group work – social skills, Social and Emotional Aspects of Learning SEAL, etc;
- teacher coaching;
- Teaching Assistant mentoring;
- CAF Lead Professional;
- Learning Mentor support;
- bespoke whole school training;
- Mid-day Supervisor training;
- risk assessment/individual handling policy training/support;
- de-escalation training/physical intervention support;

- support for children and young people where the family is deemed to be in 'acute stress';
- emergency telephone consultation and advice;
- advice and support around safeguarding where behaviour is an issue;
- support to schools in the OFSTED overall effectiveness grade of Behaviour and Safeguarding.

1.4 An additional benefit is that schools will keep the value and benefit from the BST's long-standing local knowledge, well established and trusting professional relationships and the working practices with the wider communities, including other support agencies. It is recognised that these are key factors when working with children and young people and their families. Therefore we offer attendance at and contribution to all 'Team around the School' (T@S) meetings.

## **2. BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

2.1 The team currently comprises 7.6 full time equivalent (fte) teachers and 4.6 fte Behaviour Learning Mentors. Our specialist work is delivered through all key stages in schools across the City and in neighbouring local authorities. Recent work has had a particular emphasis in primary schools around early intervention in Early Years/Key Stage 1 and for the transition between Key Stage 2 to Key Stage 3 in secondary schools. We have been able to put together bespoke packages to enable some very challenging children to be included within their school setting.

2.2 Prior to 2010 the team was not required to trade services. In subsequent years income targets were set and reached. The income raised through traded services has increased year on year. In the academic year 2013/14 of all the work delivered in school 98% was evaluated as 'very good to excellent'.

## **3. OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

3.1 An alternative option is to delegate funds directly to schools which will result in the team being permanently disbanded as has already happened at Nottinghamshire County Council where the City Council are now currently delivering work. This will have the consequences as outlined below:

- support for new SEN processes will be reduced significantly;
- reduced effectiveness of the CAF due to the reduction in professionals attending;
- no team to deliver the statutory elements of the work;
- schools and the local authority would potentially be vulnerable as there would be no central provision of specialised support around Behavioural, Emotional and Social Difficulties (BESD);
- potential increased health and safety and safeguarding risks;
- no preventative service available to schools to support the inclusion of children and young people with challenging behaviour to remain in school;
- increased risk of exclusions rising – both fixed term and permanent;
- no BST strategic advice would be available regarding handling policies / risk assessments to reduce the risk of harm and limit the likelihood of litigation and claims from either staff or young people;
- no team to deliver positive handling training;
- no City wide training.

#### **4. OUTCOMES/DELIVERABLES**

- 4.1 The BST aim is to support mainstream schools to meet the needs of children and young people experiencing behavioural emotional, social difficulties through a holistic and multi-agency approach. This support is met through the delivery of a wide and innovative range of services. In the majority of cases this allows the children and young people to remain in their setting and prevents the cost of a permanent exclusion place at either the Pupil Referral Unit (PRU) or a special school setting. All our work is delivered in collaboration with the school and monitored / evaluated at every stage. In the academic year 2013/14 of all the work delivered in school 98% was evaluated as 'very good to excellent'.
- 4.2 In the academic year 2013/14, 58 out of 62 of City maintained schools have used and benefited from some aspect of the services available to them from the BST.
- 4.3 The income from traded work has increased year on year since 2010:  
2010/11 generated £32,000  
2011/12 generated £50,000  
2012/13 generated £83,000  
2013/14 generated £98,000  
The team generates a further income each year of approximately £50,000 through delivery of positive handling training.

#### **5. FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY/VAT)**

- 5.1 Based on the latest available Department of Education (DfE) indicator data and known academy conversions the proposal relating to the compulsory buy back to ensure statutory services are performed would result in maintained mainstream primary schools de-delegating £0.252m and maintained mainstream secondary schools £0.022m for 2014/15. Therefore an estimated £0.274m would be available.
- 5.2 The principle of approving an underwrite up to the amount of £0.106m for 2014/15 and 2015/16 was given by Schools Forum on 5 December 2013 and this report is requesting the allocation of this funding for the second year 2015/16.
- 5.3 The proposal would result in the delegation of an estimated £0.431m to academy schools.
- 5.4 If only the primary phase approve de-delegation, the team is still viable but a funding shortfall would need to be made up by either increasing traded services income or achieving staffing savings.
- 5.5 Primary and secondary maintained mainstream school representatives are required to vote separately on behalf of schools in their phase.
- 5.6 The financial recommendation is that this service should develop into a sold service funded on an interim basis from an underwrite from DSG SSR whilst the traded service is being developed and income recovers costs. This is consistent with the approach that has been taken in other areas where DSG funded services have been moved onto a traded basis.

**6. RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)**

6.1 The schools forum’s powers here derive from the School and Early Years Finance (England) Regulations 2013 (“SEYFR”), made by the Secretary of State in exercise of powers under the School Standards and Framework Act 1998 and the Education Act 2002. The SEYFR came into force on 1 January 2014.

6.2 Chapter 2 of the SEYFR is entitled “Further Deductions and Variations to Limits Authorised by School Forums or the Secretary of State” and it contains regulation 12 of the SEYFR. Under regulation 12 of the SEYFR, on the application of a local authority the schools forum may authorise the redetermination of schools' budget shares by removal of any of the expenditure referred to in Part 5 of Schedule 2 (Items That May Be Removed From Maintained Schools' Budget Shares) [of the SEYFR] from schools' budget shares where it is instead to be treated by the authority as if it were part of central expenditure, under regulation 11(4) (SEYFR, regulation 12(1)(d)). Part 5 of Schedule 2 of the SEYFR contains paragraph 27, which states:

Expenditure (other than expenditure referred to in Schedule 1 or any other paragraph of this Schedule) incurred on services relating to the education of children with behavioural difficulties, and on other activities for the purpose of avoiding the exclusion of pupils from schools.

Therefore, provided the proposals fall within the above legislation, Nottingham City Schools Forum has the power to approve the recommendations in this report. This power should be exercised lawfully. Provided the amounts sought through use of this power have been correctly and lawfully calculated, the exercise of this power will be lawful.

6.3 Since this report does propose policy changes and financial decisions, it is advisable that an Equality Impact Assessment is conducted on the proposals.

**7. HR ISSUES**

7.1 In the event that Schools Forum does not support/agree the continuation of funding arrangements for non-statutory functions as outlined in the report there would be significant workforce implications that would need to be detailed in separate Chief Officer and Departmental Management Team reports. This would include potential employment / contractual obligations and costs and risks to the authority, taking into account appropriate timelines and management would need to consider potential exit payments of the affected post holders.

**8. EQUALITY IMPACT ASSESSMENT**

8.1 Has the equality impact been assessed?

Not needed

No

Yes – Equality Impact Assessment attached

**9. LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION**

9.1 None

**10. PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

10.1 De-delegation of funding for the Behaviour Support Team 05 December 2013

## EQUALITY IMPACT ASSESSMENT

### Name and brief description of proposal / policy / service being assessed

The purpose of this report is to provide an update on the Behaviour Team Support budget position and gain approvals required to progress the 2015-16 budget development.

### Information used to analyse the effects on equality

	Could particularly benefit (X)	May adversely impact (X)	How different groups could be affected: Summary of impacts	Details of actions to reduce negative or increase positive impact (or why action not possible)
People from different ethnic groups			<p>All schools across the City will no longer have access to the Behaviour Support Team from April 1<sup>st</sup> 2015 if funding is not approved. Below are just some of the impacts: The consequences will be significant reduced support for all Special Educational Needs (SEN) processes e.g. Education Health and Care Plan (EHCP), Higher Level Need funding (HLN) No preventative service available to support the inclusion of children and young people with challenging behaviour to remain in school with the likelihood of increased exclusion Potential increase in health and safety and safeguarding risks –Common Assessment Framework (CAF) process compromised No strategic advice regarding risk assessments and handling policies which may increase the risk of harm and the likelihood of litigation.</p> <p>There are staffing issues (possible redundancy)that would be the result of a decision not to fund for 2015-16</p>	<p>To reduce negative impact of non-allocation of funding, relocate current team members to alternative teams.</p>
Men, women (including maternity/pregnancy impact), transgender people		x		
Disabled people or carers				
People from different faith groups				
Lesbian, gay or bisexual people				
Older or younger people				
Other (e.g. marriage/civil partnership, looked after children, cohesion/good relations, vulnerable children/adults)				

### Outcome(s) of equality impact assessment:

No major change needed    Adjust the policy/proposal    Adverse impact but continue    Stop and remove the policy/proposal

**Arrangements for future monitoring of equality impact of this proposal / policy / service:**

There will be ongoing monitoring

Approved by (manager signature):

Contact Details:

Alison Michlaska, Corporate Director for Children and Adults

☎ 01158 763 332

✉ [alison.michlaska@nottinghamcity.gov.uk](mailto:alison.michlaska@nottinghamcity.gov.uk)

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