

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

4057

Author:

Janine Walker

Department:

Children and Adults

Contact:

Janine Walker

(Job Title: Service Manager, SEND, Email: janine.walker@nottinghamcity.gov.uk, Phone: 0115 8764698)

Subject:

Amalgamation of NEST Provision with the Hospital and Home Education Learning Centre

Total Value:

£69,018 (Type: Revenue)

Decision Being Taken:

- 1) To amalgamate the Nottingham Education Sanctuary Team (NEST) provision with the Hospital and Home Education Learning Centre (HHELC), based at the College Street Centre. This amalgamation will enable the two services to share expertise, resources and good practice, to support cohorts of vulnerable learners. The amalgamation will also enable funding for the post-16 students to be claimed directly from the Education and Skills Funding Agency (ESFA), to replace the temporary Dedicated Schools Grant (DSG) high needs funding provided by the Council on a one-year basis, to keep this much-needed provision operational.
- 2.) To transfer the IDEAL and NEST staff currently employed by the Ellis Guilford and Greenwood Academy Trust to the HHELC.

Reasons for the Decision(s)

NEST is a full-time, post-16 educational provision for asylum seeker and refugee young people, aged 16-19 years. This initiative was launched with two years' Department for Education (DfE) funding from the Controlling Migration Fund in September 2018, with a view to ensuring rapid access to an appropriate education for unaccompanied asylum seeking young people who were at safeguarding risk due to lack of availability of provision. The gap in provision is identified as a national issue, as well as the urgency to meet the children's complex needs (educationally, mentally and socially). This provision has been based on the site of a local Academy and had a 30-place capacity in 2019/20. There have been regular DfE programme meetings with the Local Authorities taking part in this work. DfE colleagues visited NEST in the second year and our work has been held as an example of best practice in this field. Professor Jo McIntyre of Nottingham University is publishing a book of her research into Refugee Education, and NEST features throughout. We also won the Nottingham Post award for Educational Provision of the Year 2019.

Nottingham City's Year 11 New Arrivals provision was established several years ago to meet the increasing demand for City school places in Year 11, and to support the schools' difficulties in meeting the needs and delivering an appropriate curriculum to Year 11 learners who are beginners to English in their final year of statutory schooling. Young people arriving from abroad at the early stages of learning English are often referred through the Fair Access Protocol and go on roll at a base school, but attend the City's specialist provision full-time. The provision has been based on the site of a local Academy and is funded through a combination of the Dedicated Schools Grant (DSG) funded high needs budget and contributions from base schools, where pupils are on roll by the October census. It has a 30-place capacity and the systems are now well-established.

DfE funding through the Controlling Migration Fund has ended for the post-16 provision, but one year's transition funding has been identified by the Council through the DSG funded high needs budget, to support the establishment of a 15-19 through-provision. The above two provisions work in close partnership already, the curriculum and learner profiles are very similar and they are familiar with each others' work. There has been recent movement of staff out of the Year 11 provision, therefore the intention is to merge these two provisions into a single 50-place NEST 15-19 provision. In this way, we can maximise the staffing, expertise and resourcing and ensure that this specialist facility is not lost to Nottingham. The demand for places is increasing. We anticipate that post-16 students in the combined provision should attract funding through the ESFA national funding formula for pupils aged 16-19 once the status of this provision is formally agreed with the DfE. The one-year arrangement ensures financial viability of the provision whilst ESFA funding is secured, and allows time for the Council's Finance colleagues to establish the longer-term funding model through ESFA post-16 funding sources. The two previous Academy bases are no longer available and a base has been identified in a Council educational building (College Street) from September 2020.

This amalgamation will ensure that NEST becomes part of a DfE-registered school, with Ofsted scrutiny and entitlement to financial and other support, as well as long-term sustainability.

Briefing notes documents:

Copy of Appendix 1 NEST student progress report end year 1 end year 2 (1).pdf

Other Options Considered: To do nothing: this option has been considered and rejected. There has been a year-on-year increase of admissions to the NEST provision, and there are national safeguarding concerns that unaccompanied asylum seeker children have difficulty in accessing education. If this project does not progress, NEST will no longer be viable and the service would close in July 2021, leaving a significant number of vulnerable young people without good quality education and increasing their risk and vulnerabilities. This group of young people are making accelerated progress compared to national accessing NEST provision. Year 11 new arrivals currently accessing NEST provision via the Fair Access Panel would no longer have use of the service and provision would need to be sought in mainstream schools. This may lead to delays in admission and young people not having access to a curriculum that would meet their English as an additional language and therapeutic needs.

Background Papers: None

Published Works: None

Affected Wards: Citywide

Colleague / Councillor Interests: None

Consultations: Those not consulted are not directly affected by the decision.

Crime and Disorder Implications: This cohort of young people are vulnerable to child criminal and sexual exploitation. NEST provision supports the effective safeguarding of this group.

Equality: Please login to the system to view the EIA document: equality-impact-assessment - NEST - V2.docx

Relates to staffing: Yes

Decision Type: Portfolio Holder

Subject to Call In: Yes

Call In Expiry date: 01/12/2020

Advice Sought: Legal, Finance, Human Resources, Equality and Diversity

Employment Legal Implications

Legal Services understands that, if this proposal is approved, then a total of four employees will transfer to Nottingham City Council by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"). It is further understood that all four employees are teachers. If those four teachers are members of the Teachers' Pension Scheme (i.e., their public service pension scheme) then Nottingham City Council must abide by Her Majesty's Treasury guidance relating to staff subject to a non-voluntary transfer - Fair Deal for Staff Pensions: staff transfers from Central Government ("Fair Deal"). The provisions of Fair Deal stipulate that such staff should continue to be members of the public service pension scheme they were in immediately prior to the TUPE transfer. Therefore, if this proposal is accepted and if those four teachers are members of the Teachers' Pension Scheme, Nottingham City Council will have to maintain such membership after any TUPE transfer. Since Nottingham City Council already employ teachers who are members of the Teachers' Pension Scheme, it should have the ability to arrange such continued membership for the four (teacher) employees.

Advice provided by Aman Patel (Solicitor) on 04/11/2020.

Education Legal Implications

Under s.20 School Standards and Framework Act 1998, a community school is a maintained school. As such, the Hospital and Home Education (HHE) Pupil Referral Unit (PRU) is a maintained school. Under s.18 Education and Inspections Act 2006 (EIA), regulations may prescribe alterations to maintained schools following proposals being published, where required to do so under s.19 of the EIA. The relevant regulations are the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (Regulations), which lay down the rules with respect to what a prescribed alteration is. It is understood, in these circumstances, that the proposals will be an additional site of an existing PRU, by way of an amalgamation. Therefore, the view is that it is not a proposal that would be classed as a 'prescribed alteration' under the Regulations that would require formal publication.

The NEST provision is already established at College Street and the DfE have been engaged with this arrangement throughout. Whilst formal publication is not required, it is recommended that the schools organisation team at the DfE is notified of the proposal, if it has not been done so already. The amalgamation is understood to enable the NEST provision to be captured under the formal status of the HHE PRU, which in turn will enable access to funding, as well as shared service provision and expertise.

Advice provided by Dionne Claire Screatton (Solicitor) on 04/11/2020.

Finance Advice:

The estimated cost of the joint provision for the 2020/21 academic year is £302,000. Funding amounting to £233,000 is already secure. This is made up of £152,000 budgeted on an ongoing basis for the Year 11 IDEAL provision from the Dedicated Schools Grant (DSG) funded high needs budget, £72,000 in contributions due from base schools for Year 11 pupils currently on roll, and £10,000 in Vulnerable Persons Resettlement Scheme funding. This leaves a further one-off funding requirement of £69,000 for the 2020/21 academic year.

From September 2021, it is anticipated that funding for the post-16 pupils will be provided through the national 16-19 funding formula. Confirmation of this will not be obtained until early 2021, when the Education Skills Funding Agency (ESFA) consider applications for new post-16 provision for September 2021. However, the ESFA have advised that they will have a duty to fund the provision as long as the programme of study meets their criteria, which will be the case.

The amalgamation of the former separate NEST and Year 11 IDEAL new entrant provisions under the umbrella of Hospital and Home Education offers good value for money in shared resourcing and should result in a saving against the annual £152,000 DSG high needs funding requirement, once the post-16 funding is on stream. The utilisation of College Street for this provision will generate an annual £40,000 contribution towards the overhead costs of this site.

The £69,000 one-off funding requirement can be met from the DSG funded high needs budget. Approximately £42,000 will be required in the 2020/21 financial year and there will be capacity to meet this from the high needs Alternative Provision (AP) Contingency, as AP costs were under budget in the summer term. The remaining £27,000 expected to be required in the summer term 2021 will be budgeted from the 2021/22 DSG high needs funding allocation.

Advice provided by Kathryn Mair Stevenson (Finance Analyst) on 30/10/2020.

HR Advice:

As the proposal relates to services being brought in-house, this will create a transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), therefore the following should be considered. Any employee of Creative Education Trust or Greenwood Academy Trust who is assigned to either IDEAL or NEST will be in scope to transfer under TUPE to Nottingham City Council unless s/he formally objects to transfer.

It will be the responsibility of Creative Education Trust and Greenwood Academy Trust to carry out the relevant information and consultation process under TUPE and any objection to the transfer would be communicated by individual employees to Creative Education Trust and Greenwood Academy Trust. TUPE places an obligation on Nottingham City Council to engage with Creative Education Trust and Greenwood Academy Trust to undertake genuine consultation with affected employees and trade unions on any proposed changes to the terms of employees' contracts of employment. These changes must be for an economic, technical or organisational ('ETO') reason and this must be consulted on with affected parties. Nottingham City Council cannot harmonise terms and conditions unless it is for an ETO reason. Therefore it is important for Nottingham City Council to obtain information on incoming employee's terms and conditions in order to identify where potential measures may need to be proposed. To date, the declared measure is a change in location, which involves working across a number of sites that make up the Hospital and Home Education Learning Centre. This has been shared with the affected employees.

If the transfer will lead to a restructure or potential redundancies, this should be fed into the consultation process and costs and relevant legal requirements in relation to this should be considered.

An appropriate induction must also be planned to ensure individuals feel welcomed into the organisation and the transition is successful and continuity is provided for service users.

Advice provided by Leanne Sharp (Service Redesign Consultant) on 24/10/2020.

Equality and Diversity Advice:

There are no adverse impact on any protected groups, and the Equability Impact Assessment can be signed off once minor changes have been addressed.

Advice provided by Nasreen Miah (Equality and Employability Consultant) on 23/10/2020.

Advice documents: equality-impact-assessment - NEST - V2.docx

Signatures

David Mellen (Leader/ PH Regeneration, Schools, Communications)
SIGNED and Dated: 24/11/2020
Catherine Underwood (Corporate Director for People)
SIGNED and Dated: 23/11/2020