

Schools Forum - 16 July 2024

Title of paper:	Education for children unable to attend school for health reasons
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Summary	
<p>In December 2023, the Department for Education (DfE) updated their guidance for arranging education for children unable to attend school for health reasons. This places greater expectations on the Local Authority to support young people not attending school for health reasons, including the growing number of young people with mental health issues.</p> <p>As such, a new policy is being developed to be launched in September 2024 and this paper outlines the policy and the funding required to deliver it.</p>	
Recommendations:	
1	To approve the funding proposal for up to £1,067,423 for the 2024/25 academic year from the DSG High Needs Block to support the Council's response to the amended guidance.
2	To consider and comment on the proposals to support children unable to attend school for health needs.

1. Reasons for recommendations

- 1.1 Section 19 of the Education Act 1996 has always required Local Authorities to make provision for children who are unable to attend school due to illness, permanent exclusion or other reason. However, the Department for Education (DfE), has issued revised guidance for schools, settings and Local Authorities about how to support children unable to attend school for health reasons.
- 1.2 The revised guidance supports the updated Working Together to Improve School Attendance guidance which becomes statutory in August 2024.
- 1.3 In order to meet the growing demand for support for children with health needs as well as allowing the Council to meet this statutory duty, a proposal for a policy, a new team and a new process has been developed. This is outlined in more detail in this paper.
- 1.4 Despite the significant increase in workload, demand and resources both new pieces of guidance will create for schools, settings and the Local Authority, the DfE are not allocating any additional funding for this work.

1.5 Instead, the guidance for supporting children unable to attend school for health reasons makes reference to the ongoing expectation that alternative provision for children with medical needs is funded by Local Authorities high needs budgets. This is a legitimate use of high needs funding.

2. **Background (including outcomes of consultation)**

2.1 School attendance has been impacted very negatively by the Covid-19 pandemic and this is a global issue due to changes in parent and child attitudes and circumstances. Nottingham has been identified by the Department for Education (DfE) as a priority area and we are 18 months in to the two-year Priority Education Investment Area project which focusses on improving school attendance and reducing persistent absence.

2.2 In the 2023/24 academic year to date our primary school attendance rate is 94% compared to the national figure of 94.7% and secondary school attendance rate is 91% compared to the national figure of 91.6%. Whilst our overall attendance rate is broadly in line with national figures, our percentage of pupils who are persistently absent is cause for concern. For primary, the rate of persistent absence is 20.5% compared to a national figure of 16.1% and for secondary the rate of persistent absence is 28.1% compared to 25% nationally.

2.3 For the 2023/24 academic year to date, there are 923 children with attendance below 30%. Of these, 162 children were registered for 10 sessions or less.

2.4 To improve attendance, the DfE have rolled out a number of changes and initiatives. Nottingham is one of 20 identified Priority Education Investment Areas and benefits from an independently chaired partnership improvement board and £2 million additional funding. One of the target improvement areas chosen by the board is school attendance and the city is benefitting from a range of additional support until the end of March 2025.

2.5 The move to make 'Working Together to Improve School Attendance' statutory is another key change from the DfE. This document makes clear supporting children to attend school is an early help, multi-agency function and should be delivered in partnership with children and their families. The document also brings in a new requirement for schools to notify the Council when a child is likely to be off due to ill health for 15 days or more. This can either be 15 consecutive days or 15 days throughout the academic year.

2.6 The process to support children unable to attend school for physical health reasons is well established in the city through Hospital Home Education Learning Centre. However, the new guidance also refers to those unable to attend school for mental health reasons. The growing number of children who are struggling with their mental health since the pandemic has been well documented and this is something we are seeing consistently in Nottingham. It is difficult to predict how many children there may be who are not attending school for mental health reasons due to school attendance codes not differentiating between illnesses. However, we estimate there to be hundreds of children who may be referred to the Local Authority from September when this guidance comes into effect.

- 2.7 As such, we have developed an outline approach to support children not attending school for mental health reasons and a support package in partnership with Hospital Home Education Learning Centre (HHELC).
- 2.8 The draft policy has been developed and will be shared with city schools for feedback before being published for the 2024/25 academic year. The policy will be part of the Council's wider school attendance policy and will outline expectations for schools to try to support young people with mental health issues to attend school regularly. If schools have followed the expectations in our policy, which mirror the DfE's guidance and they are still concerned about a pupils attendance for mental health reasons they will be able to refer the child to a multi-agency Complex Case meeting which will happen weekly.
- 2.9 At this meeting, the panel will consider all referrals and the child will receive one of three outcomes:

Outcome 1 – triage stage	Children will be referred back to their school with recommendations for further support to be offered if the panel feel the school have not met their duties outlined in the guidance.
Outcome 2	Children will be referred for an initial assessment with the Mental Health Support Team (MHST) and will receive 12 weeks of support from the team. During this time, the young person should be encouraged to continue to access education at their home school either face to face and onsite or through the use of the AV1 bots which will be provided by HHELC. If this is not possible, the HHELC Outreach Team could pick up some education in the home and an offer of online learning will also be made. A suitable education package will be agreed between all parties.
Outcome 3	The child will be allocated a place at HHELC for a period of 12 weeks, followed by a 6 – 8-week reintegration package of support.

- 2.10 All children who follow outcomes 2 or 3 will be reviewed again by the panel every 6 weeks and can be escalated as required. Children on outcome 3 will be re-assessed after 12 weeks with a view to being reintegrated back to their school.
- 2.11 The ambition is for all children to stay on roll at their home school. If the child spends time in an AP, a discussion will be held between the school and the LA to consider a transfer of funding from the school to the LA, in line with the DfE's guidance.
- 2.12 The Education Division has been running a weekly complex case meeting since September 2023, and this has been an informal meeting between colleagues from Access to Learning, Special Educational Needs and Education Welfare to discuss potential Section 19 cases amongst others.
- 2.13 The complex case process has been successful in ensuring greater oversight of children at risk of exclusion or those not attending school and allowing schools and stakeholders to refer children on concern for consideration in a timely manner.

Currently this panel hasn't been resourced however, and the learning from this year is that this should be addressed so the panel process can be formally launched to schools and stakeholders.

2.14 Where cases have been referred for children not attending school for mental health reasons, a variety of options have been explored including referrals to HHELC or other AP's for a placement, online learning or tuition. The barrier, however, has been trying to support a young person with their mental health needs in the home to enable them to engage with any provision. This is why a new team in the existing MHST service is proposed to deliver outreach support in the home for children referred to this panel.

2.15 The support outlined above is additional to the support currently available in the city and funding must be sought to cover these additional costs. This table gives an overview of the funding required to deliver this model.

Mental Health Support Team	A new team will be established in the existing Mental Health Support Team to support young people not attending school for mental health reasons. This team will comprise of 4 FTE Child Welfare Practitioners, 4 FTE Education Mental Health Practitioners, 1 FTE Clinical Supervisor and 1 FTE Team Manager. It is estimated this team could support approximately 240 children at one time.	£434,156
NCC additional staff	New roles will need to be established in the Council to oversee this process. These are a Education Panel Programme Manager, a Co-ordinator and two Education Welfare type roles to support with safeguarding and oversight of the children open to this service.	£183, 267
Educational support offer	If children are unable to access education via their home school, the Local Authority may put an education provision in place. This budget could be used on online learning, to fund additional Teaching Assistants at HHELC under their Outreach Programme or to purchase AV1 Bots to allow children to access a remote education. Funding not spent in the 2024/25 academic year will be returned to the High Needs budget.	£450,000

2.16 It is proposed to fund this model for 12 months initially, with a view to bringing an updated paper to Schools Forum in 2025 for review.

3. Other options considered in making recommendations

3.1 The costs outlined in this paper are significant and represent an investment in a model that can bring significant change for children and their families and support schools to re-engage young people.

3.2 The DfE guidance driving this paper is not specific about what provision Local Authorities should provide for children with mental health issues and a scaled down version of this package could be considered. However, it has not been at this time because it is felt this package would best meet the needs of our most vulnerable children.

4. Outcomes/deliverables

4.1 Provide support for children not attending school regularly due to mental health issues. All cases referred for support will be monitored and recorded and the success of the interventions offered will be evaluated.

4.2 Develop a model that can support schools and young people at the start of poor attendance to re-engage them early and minimise impact on their education.

4.3 To improve education outcomes for young people ensuring they thrive and go on to meet their full potential.

4.4 To reduce the number of children becoming at risk of criminal and sexual exploitation and to support vulnerable families where poor school attendance is having an impact on family cohesion.

5. Consideration of Risk

5.1 One of the risks is that the costs outlined above won't provide enough provision for the demand for this support and this places the Council at risk of judicial review. Demand will be consistently reviewed throughout the 2024/25 academic year.

6. Finance colleague comments (including implications and value for money/VAT)

6.1 Persistent non-attendance is a growing problem and concern both nationally and in Nottingham. Whilst on the face of it non-attendance doesn't appear to have a financial impact in truth it impacts not only the young person, but also their family and community and is both long lasting and financial.

6.2 Empowering young people to access education improves not only their life chances but also stops their needs escalating and the subsequent costs of supporting those needs escalating.

6.3 The number of EHCP's stating SEMH as the primary need has increased by 50% in the last 4 years (Jan 20 SEN2 census = 199, Jan 24 SEN2 census = 299) the introduction of a new team within the Mental Health Support Team will deliver a 12-week early intervention programme for approximately 240 young people, that has the potential to slow down the growth of this trend.

6.4 This Invest to Save initiative is not without its risks, but these can be mitigated using seconded staff and a Trial Period of one academic year.

6.5 The guidance from the DfE was issued in December 2023 this was effectively too late to be include in the Budget setting process that culminated in the Schools Budget 2024/25 paper taken to Schools Forum on 16 January 2024 stated on page 42 para 2.6.4:

As there is a potential £3m underspend in current year and increase of £2.926m HN funding in 2024/25 we estimated a £2.7m balance from HN budget allocation and will show this element as going straight to reserves for use in future years. Should there be any unforeseen HN budget requirements for 2024/25 that cannot be met from the high needs contingency budget, then appropriate approvals will be sought in-year to fund these from the DSG reserve.

- 6.6 It is proposed that the £1.067m required for this initiative be taken from the £2.7m identified above.

Donna Munday, ACMA, CGMA, Senior Commercial Business Partner - 02/07/24

7. Legal colleague comments

- 7.1 Every Local Authority is under a duty, pursuant to The Schools Forums (England) Regulations 2012, to constitute a Schools Forum in accordance with those regulations in their area. Schools Forum can have either a consultative role or act pursuant to decision-making powers; for the purposes of this report, the Schools Form have a consultative role.
- 7.2 This paper outlines the proposed policy and consequential funding requested (circa £1million) to implement that policy in order for the Council to meet its duty under s19 Education Act 1996. The funding is intended to be sourced from the Dedicated Schools Grant High Needs Budget and the paper's author confirms that the use of the Dedicated Schools Grant High Needs Budget in the proposed way is in accordance with the terms and requirements of that Budget.
- 7.3 It is noted that the DSG High Needs Budget funding will be in addition to the funding made available to the Council after Nottingham was identified as one of the Priority Education Investment Areas; the Priority Education Investment Area funding cannot be used to fund activities that are the duty of the Council to provide.
- 7.4 It is unclear on what legal basis the draft policy will be shared with city schools for feedback. In any event, unless there are specific provisions prescribing the process, or the process is expressly stated not to be a consultation, the Council should follow established public law principles of consultation to mitigate the risks of challenge and best inform decisions that may be made.
- 7.5 It is unclear how the work of, and outcomes from, the multi-agency Complex Case reviews will be monitored. It is recommended that some form of monitoring of the work, and in particular the outcomes, is undertaken to inform future decisions around this, or similar, processes in particular the proposed updated paper for the Schools Forum in 2025. This may also feed into the tangible assessments of the stated Outcomes/deliverables, whatever they may be.
- 7.6 As this proposal includes creating new posts, detailed support and guidance from HR is recommended.
- 7.7 As the funding for the new team and for implementation of the policy will be from the DSG High Needs Budget, which is finite, ongoing and regular monitoring of the implementation of the policy is advised to mitigate the risk of the Council needing to fund aspects of the policy implementation itself.

7.8 Reference has been made to the Council being at risk of judicial review. It is unclear on what basis a judicial review challenge would be initiated so informed legal comments on the actual legal risks of a challenge being initiated and the risks of that challenge being successful cannot be offered. Legal Services will, however, support colleagues should a challenge by judicial review be initiated.

Anthony Heath, Head of Legal Services - 10 July 2024

8. HR colleague comments

8.1 The report requests £1,067,423 from the DSG High Needs Block to create temporary additional roles, on 12-month contracts, to support the Council's response to the DSG's amended guidance for arranging education for children unable to attend school for health reasons.

8.2 If approved, these additional temporary roles are:

Role	FTE	Grade
Child Welfare Practitioners	4	F
Educational Mental Health Practitioners	4	F
Clinical Supervisor	1	I
Team Manager	1	J
Education Welfare Officer	2	F
Panel Co-ordinator	1	G
Complex Case Manager	1	J

8.3 Management will need to ensure that recruitment is conducted through the appropriate processes for the newly created roles, with a Spend Board panel approval process in place for all posts. EDI considerations need to be considered throughout the whole process.

8.4 Management have confirmed that all roles have been through the job evaluation process apart from the Complex Case Manager role, which is still being reviewed by the job evaluation team.

8.5 Management need to ensure there is an appropriate exit strategy in place in order to terminate the fixed term contracts in line with NCC guidance in the event that the posts are not made permanent at the end of the fixed term period. Risks should be managed with regard to the impacts of fixed-term workers and allowances will need to be made within the budget for redundancy costs if the successful candidate has continuous service that is over 2 years at the end of the contract. Timelines associated with notice periods and redeployment obligations will also need to be considered.

8.6 Management should apply pay policy principles in the starting salary for all new post holders and seek HR advice if necessary. There will need to be a support and development plan and robust performance objectives for the new post-holder once appointed. Future Ways of Working should be discussed with the employee in relation to category of worker and any expectations should be clearly outlined with regard to attendance at a NCC base, dependant on the role and responsibilities.

8.7 The proposed additions will need to be reflected in the service structure and changes made to ensure that Establishment Control is maintained accurately.

9. Crime and Disorder Implications (If Applicable)

9.1 N/A

10. Social value considerations (If Applicable)

10.1 N/A

11. Data Protection Impact Assessment (DPIA)

11.1 A DPIA for the process will be written before the launch in September 2024.

12. Carbon Impact Assessment (CIA)

12.1 A DPIA is not required.

13. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

13.1 None.

14. Published documents referred to in this report

14.1 None.