

## SCHOOLS FORUM – 24 SEPTEMBER 2015

<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 Pat and Sarah Fielding, Directors of Education
<b>Report author(s) and contact details:</b>	Trish Haw, Behaviour Support Team Leader Tel: 0115 8762433 Email:trish.haw@nottinghamcity.gov.uk
<b>Other colleagues who have provided input:</b>	Julia Holmes, Finance Analyst Leanne Sharp, Service Redesign Consultant Jon Ludford Thomas, Senior Solicitor, Legal Services Adisa Djan, Equality and Diversity Consultant

### **Summary**

Funding for BST services has been part of the school formula since April 2013. Schools Forum has the power to de-delegate the funding on behalf of maintained schools to retain this service. BST has identified 'core' elements of its role which would enable the LA/schools to meet their statutory duties. Other elements of the work of BST identified as 'non-core' are those commissioned through schools as a traded service

The funding is targeted towards those children and young people (CYP) with Special Educational Needs and Disability (SEND) and Social Emotional Mental Health (SEMH) difficulties where CYP:

- are at high risk of exclusion – all key stages;
- are in Foundation (F) and Key Stage (KS) 1;
- have identified safeguarding issues/concerns;
- have barriers to progress in school.

In the event that the Schools Forum decides not to fund the BST the likelihood is that the team will cease to exist in its current form after March 2016.

### **Recommendation(s):**

<b>1</b>	<p>For maintained mainstream primary schools to approve the de-delegation of funding for statutory services provided by the BST in 2016/17 at a rate of £55 per pupil eligible for free school meals and a lump sum of £0.003m per school.</p> <p>Total funding requested to be de-delegated by maintained mainstream primary schools is £0.301m. This is made up of £0.187m generated by pupils eligible for free school meals and £0.114m lump sum funding.</p>
<b>2</b>	<p>For maintained mainstream secondary schools to approve the de-delegation of funding for statutory services provided by the BST in 2016/17 at a rate of £55 per pupil eligible for free school meals and a lump sum of £0.003m per school.</p> <p>Total funding requested to be de-delegated by maintained mainstream primary schools is £0.026m. This is made up of £0.023m generated by pupils eligible for free school meals and £0.003m lump sum funding.</p>

3	If recommendations 1 and 2 are not approved, approval is sought from Schools Forum to fund any employment costs associated with the service being disbanded from the Statutory School Reserve (SSR), excluding the severance payments which will be funded from the Corporate Redundancy budget. Details of the costs that may be required to be funded from the SSR are detailed in 5.6. To note that once the value is known, this will be incorporated into the SSR quarterly monitoring report.
4	

## 1. **REASONS FOR RECOMMENDATIONS**

1.1 If de-delegation is approved the work undertaken by BST will contribute to the legal and statutory responsibilities of the maintained schools and the LA by working to the following legislation:

- Children and Families Act 2014;
- Special Educational Needs (SEN) Legislation 2014;
- SEN Code of Practice (2014);
- SEND tribunals – a successful tribunal can save from 23k up to 115k plus transport per year ;
- The Equality Act (2010) - access to the curriculum;
- The National Award for SEN Co-ordination (2009);
- SEN expert at Independent Review hearings for permanent exclusions
- School Attendance (Education Act 1996) and amendments 2010;
- Admissions - Schools Admissions Code 2012 (Education Act 1996);
- Ofsted Framework Sept 2012 (amended September 2015).

1.2 The de delegated budget will support the following services where the CYP has a primary need of SEMH and is presenting significant needs:

### **Safeguarding:**

- attendance at and contribution to all initial Common Assessment Frameworks (CAFs);
- attendance at and contribution to subsequent CAFs where there is active BST involvement with CYP;
- attendance at and contribution to all child protection reviews/case conferences;
- attendance at and contribution to all child in need reviews/case meetings
- a negotiated allocation of work in school to support CYPs who have child protection (CP) or child in need (CiN) status

### **SEND:**

- attendance at and contribution to team around the school (TAS) meetings x3 per year;
- support with and contribution to Higher Level Need (HLN) (was Mainstream Support Grant) requests;
- attendance at and contribution to Person Centre Review (PCRs) for CYP where BST has active involvement;
- contribution to Education Health and Care Plan (EHCP) where BST has active involvement;

- a negotiated allocation of work with school/CYP where there is an immediate risk of permanent exclusion (or repeated fixed term exclusions) for Foundation / KS1 / KS 2;
- a negotiated allocation of work with Foundation/KS1 CYP where behaviour seriously limits access to curriculum/learning.

### **Health and Safety:**

- work with school/CYP to reduce immediate health and safety risks.

1.3 De-delegation for 2016/17 will also ensure that the BST can continue to be retained, thereby providing access to additional traded services to support early intervention and staff training/CPD.

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;
- Circle of Friends / Circle of Adults / Solution Circle
- Sunshine Circles
- Theraplay
- Art Imaging
- 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';
- Advice and support around safeguarding where behaviour is an issue;
- Supporting the primary and secondary Fair Access processes

1.4 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.

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

2.1 The team currently comprises 7.65 full time equivalent (fte) teachers, 4.6 fte Behaviour Learning Mentors and 1.8 administration support. The team's 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/KS 1 and for the transition between KS 2 to KS 3 in secondary schools. The team has been able to put together bespoke packages to enable some very challenging children to be included within their school setting. During the latter half of the summer term 2015 BST provided offsite

temporary emergency accommodation for 3 CYP (1 F2 and 2 YR1) who had been excluded from their setting. This is funded separately but has provided transferable experiences to take into mainstream settings.

- 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 2014/15 of all the work delivered in school 96% 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 could have the following consequences:
- potential increased health and safety and safeguarding risks;
  - no preventative service available to schools to support the inclusion of CYP with challenging behaviour to remain in school – last year we delivered 1522 pieces of training/support to help include CYP in their mainstream placement;
  - increased risk of exclusions rising – both fixed term and permanent – of the 109 CYP referred to the team in 2014-15, 92% (102 CYP) remained in school and 79% (93) had no further exclusions;
  - no provision for pupils with significant needs in Early Years and Foundation Stage and KS1 who are at risk of exclusion. As there is currently no Pupil Referral Unit (PRU) for this age range, BST offer packages in school to try and maintain the CYP's placement and are currently providing off site temporary emergency accommodation for 3 CYP who were excluded from their school;
  - no BST strategic advice will 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 delivered around identified SEMH areas;
  - no specific team of behaviour specialist teachers to contribute to LA action plans
  - support for new SEN processes will be reduced significantly, e.g. Higher Level Need (HLN) and EHCP;
  - reduced effectiveness of the CAF due to the reduction in professionals attending – we currently support 19 CAF's;

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

- 4.1 Outcomes include:
- reduced exclusions
  - value for money - maintaining the CYP in school against the cost of a PRU place at £15,000 and the cost of a special school place at £20-25,000;
  - increased preventative work – income from traded work has increased year on year as schools are looking at early intervention support;
  - safeguarding – our work with CYP adds to existing information around safeguarding and informs Social Care;
  - HLN – support to schools to identify appropriate interventions and secure additional funding.

- 4.2 In the academic year 2014/15, all City maintained schools have used some aspect of the services available to them from the BST. In addition a further 47 academies, 3 PRU's and 2 Special schools have bought into our services
- 4.3 The income from traded work has increased year on year since 2010:  
2010/11 generated £0.082m  
2011/12 generated £0.100m  
2012/13 generated £0.142m  
2013/14 generated £0.190m  
2014/15 generated £0.200m  
A further indication of how our work is valued in the city is shown by the continued 'buy back' by the maintained schools who are converting to academy status. To date for 2015/16 packages have already been 24 primaries and 29 academies have already purchased packages and others will continue to buy ad hoc

## **5. FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

- 5.1 Based on the latest Department for Education indicator data and known academy conversions the proposal would result in maintained mainstream primary schools de-delegating £0.301m and maintained mainstream secondary schools de-delegating £0.026m. Therefore, a total of £0.327m would be de-delegated.
- 5.2 For information the proposal would result in the delegation of an estimated £0.534m to academy schools. Therefore, the total amount to be delegated is £0.861m.
- 5.3 The funding delegated to academies will be passed through the local funding formula through the free school meals (FSM) factor and the lump sum and then the total of the academies Individual Schools Budget Shares is recouped by the Education Funding Agency.
- 5.4 These calculations are based upon a rate of £55 per FSM pupil and a lump sum of £0.003m per school for both maintained schools and academies.
- 5.5 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.
- 5.6 If the proposal outlined in recommendations 1 and 2 are not approved, as outlined in paragraph 7.2, there would be significant workforce implications. If the team were to be made redundant the redundancy costs would be met from the Corporate Redundancy budget. However, based on the timeframe advised by HR the salaries of the team may still need to be paid for approximately two weeks in April 2016 (worst case scenario), plus any pay protection costs for a year should the staff find alternative employment via the redeployment register. At present this value cannot be quantified. If approved, these costs would be funded from the Statutory School Reserve (SSR) and the value will be updated on the SSR quarterly monitoring report once it is known.

Recommendation 3 is being made to Schools Forum as the BST are funded from the Dedicated Schools Grant and there are no other sources of funding to cover these costs.

- 5.7 For information Table 1 shows a breakdown of the projected income and expenditure for the BST in 2016/17.

<b>Table 1: BST Projection 2016/17</b>		
Income		
De-delegated Funding	-£0.327m	
Income from schools	-£0.170m	
SEN Income	-£0.025m	
Total Forecast Income		-£0.522m
Less Expenditure		
Projected Pay costs	£0.472m	
Projected Non-pay costs	£0.031m	
Total Forecast Expenditure		£0.503m
<b>Variance</b>		<b>-£0.019m</b>

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

**Legal Implications**

The schools forum's powers here derive from the School and Early Years Finance (England) Regulations 2014 ("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.

Chapter 2 of Part 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. To be clear, that means the Schools Forum is to make the decision on whether or not to approve the recommendations in this report. In addition, by virtue of regulation 8 of the Schools Forum (England) Regulations 2012 only the representatives of the maintained primary schools and the maintained secondary schools have a vote on

this. Moreover, 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.

## 7. HR ISSUES

It is not clear from the report whether the existing posts within the service area are fixed term due to the temporary nature of the funding. If the posts are temporary subject to the funding these would need to be extended with a further fixed term contract and management would need to ensure that appropriate exit strategies are in place to terminate the contract in line with NCC guidance in the result that the post cannot be made permanent at the end of the fixed term period. Management will need to ensure appropriate timelines are in place to notify the affected employee and give appropriate notice.

Management will also need to be aware of potential costs in any exit arrangement such as redundancy compensation will need to be budgeted for.

Should the proposal be rejected then it would result in a disestablishment of the team. This will mean that the process to be instigated would need to be in line with the NCC guidance and national legislation. Management would need to ensure a plan is in place with appropriate timelines to undertake genuine and meaningful consultation with both Trade Unions and affected individuals. Individuals would need to be given appropriate contractual notice to terminate their contracts on grounds of redundancy.

Post holders may also have access to Project People (Redeployment Register) and any costs relating to time on the register, potential work trials and pay protection must be picked up by the exporting department. If individuals are not redeployed into alternative roles prior to the termination of their contracts, their maybe redundancy costs and in addition there may also be pension strain costs if the affected individuals are between the age of 55 and 60.

Leanne Sharp  
Service Redesign Consultant  
Ext: 63603

## 8. EQUALITY IMPACT ASSESSMENT

Has the equality impact been assessed?

Not needed (report does not contain proposals or financial decisions)

No

Yes – Equality Impact Assessment attached

Due regard should be given to the equality implications identified in the EIA.

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

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



## Nottingham City Council: Equality Impact Assessment Form (Page 1 of 2)

**Title of EIA/ DDM:**

**Name of Author: Trish Haw**

**Department: Inclusion and Disability**

**Director: Pat and Sarah Fielding**

**Service Area: Behaviour Support Team  
(underline)**

**Strategic Budget EIA Y/N (please**

**Author (assigned to Covalent): Trish Haw**

**Brief description of proposal / policy / service being assessed:**

The purpose of this report is to provide an update on the Behaviour Support Team budget position and gain approvals required to progress the 2016-17 budget development

**Information used to analyse the effects on equality:**

With no funding the team in its current format will cease to be viable

The projected number of pupils who would be affected would be approx 270 based on previous years

	<b>Could particularly benefit X</b>	<b>May adversely impact X</b>
People from different ethnic groups.	<input type="checkbox"/>	<input type="checkbox"/>
Men	<input type="checkbox"/>	<input type="checkbox"/>
Women	<input type="checkbox"/>	<input type="checkbox"/>
Trans	<input type="checkbox"/>	<input type="checkbox"/>

<b>How different groups could be affected (Summary of impacts)</b>	<b>Details of actions to reduce negative or increase positive impact (or why action isn't possible)</b>
Different groups: <ul style="list-style-type: none"> <li>• CYP (children and young people) with SEN (special educational needs) where the SEN constitutes a disability</li> </ul>	To reduce negative impact of non-allocation of funding, relocate current team members to alternative teams. Click once and type. What will be done to reduce

Disabled people or carers.	<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/ Maternity	<input type="checkbox"/>	<input type="checkbox"/>
People of different faiths/ beliefs and those with none.	<input type="checkbox"/>	<input type="checkbox"/>

<ul style="list-style-type: none"> <li>• SEMH (social emotional and mental health) CYP where their difficulties are defined as a disability “ a physical or mental impairment that has a ‘substantial’ and ‘long-term’ negative effect on your ability to do normal daily activities” <i>Equality Act 2010</i></li> </ul> <p><i>Impact:</i></p> <p><i>The de-delegated funding supports the above CYP to equal access to mainstream to mainstream schooling to mitigate against their disability being a barrier.</i></p> <p><i>The impact will be:</i></p> <ul style="list-style-type: none"> <li>• <i>a reduction in the services offered in school by BST teachers for these CYP</i></li> <li>• <i>risk of exclusions increasing</i></li> <li>• <i>increased health and safety risks</i></li> <li>• <i>risk of indirect discrimination against these CYP’s</i> Click once and type. Provide details of impacts /</li> </ul>	<p>negative or increase positive impact. Actions should be SMART (Specific, Measurable, Achievable, Realistic, Timebound) and correspond to identified impacts. <b>Actions will need to be uploaded on Covalent</b></p> <p>Continue on separate sheet if needed (click and type to delete this note)</p>
--	--

Lesbian, gay or bisexual people	<input type="checkbox"/>	<input type="checkbox"/>
Older	<input type="checkbox"/>	<input type="checkbox"/>
Younger	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other (e.g. marriage/ civil partnership, looked after children, cohesion/ good relations, vulnerable children/ adults).	<input type="checkbox"/>	<input type="checkbox"/>
<i>Please underline the group(s) /issue more adversely affected or which benefits</i>		

<p>benefits on people from identified protected groups.</p> <p>Note: the level of detail should be proportionate to the potential impact of the proposal / policy / service. Continue on separate sheet if needed (click and type to delete this note)</p>	
--	--

**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:**

Ongoing annual review

Note when assessment will be reviewed (e.g. Review assessment in 6 months or annual review); Note any equality monitoring indicators to be used; consider existing monitoring/reporting that equalities information could form part of.

**Approved by (manager signature):**

*Trish Haw*

The assessment must be approved by the manager responsible for the service/proposal. Include a contact tel & email to allow citizen/stakeholder feedback on proposals.

**Date sent to equality team for publishing:**

Send document or link to:  
equalityanddiversityteam@nottinghamcity.gov.uk

**Before you send your EIA to the Equality and Community Relations Team for scrutiny, have you:**

1. Read the guidance and good practice EIA's  
<http://www.nottinghamcity.gov.uk/article/25573/Equality-Impact-Assessment>
2. Clearly summarised your proposal/ policy/ service to be assessed.
3. Hyperlinked to the appropriate documents.
4. Written in clear user friendly language, free from all jargon (spelling out acronyms).
5. Included appropriate data.
6. Consulted the relevant groups or citizens or stated clearly when this is going to happen.
7. Clearly cross referenced your impacts with SMART actions.

