

SCHOOLS FORUM - November 3rd, 2016

Title of paper:	De-delegation of funding for the Behaviour Support Team (BST)
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Summary

Since April 2013 funding for BST services has been part of the school formula. 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.

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

- are at high risk of exclusion;
- are in the Foundation Stage or Key Stage 1;
- have safeguarding concerns;
- have barriers to progress in school.

Other elements of BST work are those commissioned through schools as a traded service. This funding also contributes to BST support for schools with a LA action plan following an Ofsted report.

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 2017.

Recommendation:

1	<p>For maintained mainstream primary schools to approve the de-delegation of funding for statutory services provided by the BST in 2017/18 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 £0.276m. This is made up of £0.168m generated by pupils eligible for free school meals and £0.108m lump sum funding.</p>
2	<p>For maintained mainstream secondary schools to approve the de-delegation of funding for statutory services provided by the BST in 2017/18 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 secondary school 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

<p>fund any employment costs associated with the service being disbanded, this may include salary costs for April 2017 excluding the severance payments which will be paid for from the Corporate Redundancy budget, from the Statutory School Reserve, and note that once the costs in relation to the notice period and pay protection if the staff are redeployed are known this value will be incorporated into the Statutory School Reserve quarterly monitoring report.</p>

1 REASONS FOR RECOMMENDATION

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

- Children and Families Act 2014;
- Special Educational Needs (SEN) Legislation 2014;
- SEN Code of Practice (2014);
- Health and Safety Act 1974;
- 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 2012 (amended 2015).

1.2 The delegated budget will provide the following services to maintained primaries where the CYP has a primary need of SEMH and is presenting with significant needs:

SEND:

- a negotiated allocation of work with school/CYP where there is an immediate risk of permanent exclusion for KS1 Foundation Stage CYP;
- a negotiated allocation of work with Foundation/KS1 CYP where behaviour seriously limits access to curriculum/learning;
- attendance at and contribution to Person Centred Review (PCRs) for CYP where BST has active involvement;
- contribution to Education Health and Care Plan (EHCP) where BST has active involvement;
- attendance at and contribution to team around the school meetings (TAS) up to 3 per year.

Safeguarding:

Where the Behaviour Support team are actively involved in working with a pupil in maintained primaries, the team will provide:

- attendance at and contribution to Common Assessment Frameworks/early help meetings;
- 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 CYP who are subject to child protection status (S47);
- a negotiated allocation of work in school to support CYP who have child in need status (S17) for CYP.

Health and Safety:

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

1.3 De-delegation for 2017/18 will ensure that sufficient staffing can be retained within the BST to continue access to additional traded services, for both academies and maintained schools.

These services include:

- risk assessment and individual handling policy training/support;
- de-escalation training and physical intervention support;
- therapeutic interventions e.g. Play Therapy, Theraplay, Sunshine Circles, Art Imaging;
- personalised programmes for an identified CYP;
- parenting programmes e.g. Solihull or personalised parenting support;
- teacher or TA coaching/mentoring;
- Senco support;
- observations – whole class or pupil;
- inset training;
- mid-day Supervisor training;
- behaviour and lunchtime audits;
- strategic work e.g. review/rewrite schools behaviour policy;
- support to schools in the Ofsted overall effectiveness grade around Personal Development, Behaviour and Welfare.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

2.1 The team currently comprises 5.0 full time equivalent (fte) teachers, 5.0 fte Behaviour Learning Mentors and 1.0 administration support. Over the last year staffing has been reduced and models of service delivery reviewed in order to provide a more efficient service delivery.

The team's specialist work is delivered across all key stages in schools across the City and in neighbouring local authorities and to other agencies. All members of staff deliver a combination of traded services to all settings and support that is free at the point of delivery to maintained schools.

Work continues to have a particular emphasis in primary schools around early intervention in FS/KS 1; and around transition support from KS2 to KS3.

Additionally, there are increasing requests for therapeutic work to support very vulnerable or challenging CYP. The team continues to work with schools to create bespoke packages to enable some very challenging children to be included within their school setting or maintain their school place.

2.2 Since trading was required from 2010, income targets were set and reached. The income raised through traded services has increased year on year. In the academic year 2015/16 of all the work delivered in school 97% continued to be evaluated as 'very good to excellent'.

- 2.3 Since 2014 the team has diversified and is working to establish itself on commercial footing by offering training and support to settings other than maintained schools and academies. For example, provision of RPI training to social care settings.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 An alternative option is to delegate funds directly to schools. The failure to de-delegate the funding will lead to increased uncertainty that the team will be financially viable. The uncertainty regarding income may lead to a loss of experienced and knowledgeable staff and impact on the team's sustainability and capacity to provide support to schools across the city.

A reduction in the capacity within BST would have the following consequences:

- lack of preventative services available to schools to support the inclusion of CYP with challenging behaviour/ SEMH to remain in school;
- potential increased health and safety and safeguarding risks to pupils and staff;
- increased risk of exclusions rising – both fixed term and permanent – especially in FS/KS1;
- lack of BST strategic advice 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;
- insufficient capacity to deliver positive handling training and support schools with risk reduction;
- support for SEN processes will be reduced significantly, e.g. HLN and EHCP;
- reduced effectiveness of the CAF/early help action plan due to lack of support from BST
- no City wide training or Senco Network input around SEMH;
- no specific team of behaviour specialist teachers to contribute to LA action plans for maintained schools where behaviour has been identified as an area of concern
- reduction in support for the primary and secondary Fair Access processes. BST currently support CYP reintegration back into schools;
- no BST attendance to represent schools at JCNC or joint working with the HSE around violent incidents.

4 OUTCOMES/DELIVERABLES

4.1 Outcomes delivered 2015/16:

- Increased preventative work – income from traded work has increased year on year as schools are looking at early intervention and therapeutic support.
- Reduced exclusions - of the CYP referred to us at risk of exclusion 97% remained in school and 84% received no subsequent exclusions.
- 1,137 staff were trained in positive handling.
- Immediate BST response (via phone consultation or RPI call out) to emergency health and safety risks at a school – an average of 1 per day.
- Increased casework:
 1. In 2014/15 110 pieces of casework around FS/KS1; in 2015/16 there were 205.
 2. In 2015/16 172 pieces of casework around KS2.
 3. In 2015/16 178 pieces of casework around KS3/4.

- 'Core' children - 80 x FS/KS1 CYP in maintained Primaries were supported as 'core' children by BST as they were deemed to be at very high risk of exclusion.
- Safeguarding – 40% CYP that BST supported had either active social care involvement or TFS/PF. BST attended meetings (e.g. ICPCs) and contributed to reports around these CYP.
- HLN – strategic support given to schools to identify appropriate interventions and secure additional funding.
- HLN – active involvement with 130 CYPs receiving HLN:
 1. 3 x FS CYP;
 2. 95 x Primary CYP.
 3. 32 x Secondary CYP.
 4. CYP who received HLN and their school place was being directly maintained through sustained BST support was 58.
- EHCP process – BST attended PCRs and completed reports to support the EHCP process for 50 CYP across all key stages.
- Reducing financial risks and providing value for money - maintaining the CYP in school against the cost of a PRU place at £15,000 per pupil; the cost of a special school place at £20-25,000 per pupil; supporting the EHCP process at £6000 per request.

4.2 In the academic year 2015/16, BST has directly worked in:

1. 76 of the 77 City Primaries;
2. 14 of the 15 City Secondaries;
3. 4 of the 9 City Special Schools (2016/17 BST will work in 5 of the 9 City Special Schools (Oakfield, 07-10-16));
4. 1 free school in the City.

4.3 The income from traded work has increased year on year:

1. 2010/11 generated £32,000
2. 2011/12 generated £50,000
3. 2013/14 generated £98,000
4. 2014/15 generated £171,000 (including £50,000 through positive handling training)
5. 2015/16 generated £259,741 (including £71,469 through positive handling training)

Income and costs:

	2015-16 (actual)	2016-17 (projected)	2017-18 (projected)
Service Costs	£0.567m	£0.421m	£0.421m
DSG Income	-£0.311m	-£0.291m	-£0.302m
Income generated	-£0.260m	-£0.252m	-£0.275m

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 £0.276m and maintained mainstream secondary schools £0.026m.
- 5.2 For information the proposal would result in the delegation of an estimated £0.518m to academy schools. Therefore, the total amount to be delegated is £0.820m.
- 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.

- 5.6 If the proposal outlined in recommendations 1 and 2 are not approved, as outlined in paragraph 7.1, 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 the month of April 2017 (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.

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

6.1 Legal Implications

- 6.1.1 The schools forum's powers here derive from the School and Early Years Finance (England) Regulations 2015 ("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 7 January 2016.
- 6.1.2 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.

6.1.3 Therefore, provided the proposals fall within the above legislation, Nottingham City Schools Forum has the power to approve the recommendations in this report. In addition, by virtue of regulation 8 of the Schools Forums (England) Regulations 2012 only the representatives of the maintained primary schools have a vote on this in respect of maintained primary schools and only the representatives of maintained secondary schools have a vote on this in respect of maintained secondary schools. 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

7.1 As outlined in the report, although the size of the team has reduced through vacant posts, a decision not to continue funding arrangements is likely to lead to the reduction of the service. This would have significant workforce / financial implications relating to potential redundancy situations that would need to be detailed separately in Chief Officer and Departmental Management Reports, including potential employment / contractual obligations, costs and risks to the authority, and appropriate timelines for both teachers and LG employees. Potential exit payments of any affected post holders would also need to be considered.

If the decision is to not de-delegate funding, uncertainty around post funding is likely to jeopardise the sustainability of the service in terms of staffing during transition to any alternative model of funding that may be identified.

8 EQUALITY IMPACT ASSESSMENT

8.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because:
(Please explain why an EIA is not necessary)

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

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 None