

SCHOOLS FORUM – November 9th, 2017

Title of paper:	De-delegation of funding for the Behaviour Support Team (BST) in 2018/19
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Summary

Since April 2013, funding for the Behaviour Support Team 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 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.

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 2018.

Recommendation(s):

1	<p>Consider the proposal 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 available for de-delegation by maintained mainstream primary schools is £0.227m. This is made up of £0.137m generated by pupils eligible for free school meals and £0.090m lump sum funding.</p>
2	<p>Consider the proposal 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 available for de-delegation by maintained mainstream secondary school is £0.027m. This is made up of £0.024m generated by pupils eligible for free school meals and £0.003m lump sum funding.</p>
3	To note a final report will be brought to the Schools Forum meeting on the 7 th December

	2017 to request approval from mainstream maintained primary and secondary schools to de-delegate funding for the Behaviour Support Team in the financial year 2018/19.
4	If the proposals for de-delegation are not subsequently approved, approval will be sought from Schools Forum to fund any employment costs associated with the service being disbanded, this may include salary costs for April and May 2018 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.

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 maintained schools by working to the following legislation:
- Children and Families Act 2014;
 - SEND - new Code of Practice (updated 2015);
 - Health and Safety Act 1974;
 - The Equality Act (2010);
 - Children Act 1989 - revised 2004;
 - Exclusion Regulations - Education Act 2011;
 - Exclusion Guidance, 2017;
 - School Attendance (Education Act 1996) and amendments 2010;
 - Admissions - Schools Admissions Code 2012 (Education Act 1996);
 - Ofsted Framework 2012 (amended 2015).
- 1.2 The de-delegated budget will provide the following services, at no cost to school, to maintained primaries where the child has a primary need of SEMH and is presenting with significant need:

SEND

- A negotiated allocation of work with the pupil/school where there is an immediate risk of permanent exclusion for a Foundation Stage/KS1 child;
- A negotiated allocation of work for a Foundation Stage/KS1 pupil where behaviour seriously limits access to the curriculum/learning;
- Attendance at and contribution to Person Centred Reviews (PCRs) for children where BST has active involvement;
- Contribution to Education and Health Care Plans (EHCPs) where BST has active involvement;
- Attendance at and contribution to team around the school meetings (TAS).

SAFEGUARDING

Where BST are actively involved in working with a child in maintained primaries, the team will provide:

- Attendance at and contribution to Common Assessment Framework/early help meetings;
- Attendance at and contribution to child protection reviews/case conferences;
- Attendance at and contribution to child in need reviews/case meetings;
- A negotiated allocation of work in school to support children who are subject to child protection status (S47);
- A negotiated allocation of work in school to support children who have child in need status (S17).

HEALTH AND SAFETY

- Work with school/pupil to reduce immediate health and safety risks;
- Work with school to try and ensure risks are tolerable and appropriate control measures are in place to limit the likelihood of future harm and maintain the child's school place.

- 1.3 De-delegation for 2018-19 will ensure that sufficient staffing within the Behaviour Support Team can be retained, to deliver the above services and to ensure continued access to additional traded, commissioned services, for academies and maintained schools.

These services include:

- de-escalation training plus physical intervention and positive behaviour support;
- therapeutic interventions e.g. Play Therapy, Theraplay, Special Play, Sunshine Circles, Art Imaging;
- personalised programmes and support for an identified pupil/child;
- teacher or TA coaching/mentoring;
- Senco support;
- observations – whole class, pupil or fixed interval sample;
- inset training;
- mid-day Supervisor training;
- behaviour and lunchtime audits;
- parenting programmes (e.g. Solihull) or bespoke parenting support;
- strategic work e.g. review/rewrite school's 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 4.6 full time equivalent (fte) teachers, 4.0 (fte) Behaviour Learning Mentors and 1.0 administration support. Over the last year, staffing has again reduced and models of service delivery reviewed once more, in order to offer continued value for money and provide a more efficient service delivery.

The team's specialist work is still delivered across all key stages in schools across Nottingham City and in neighbouring local authorities and to other agencies. All staff members continue to deliver a combination of commissioned, traded work to all settings as well as work that is free at the point of delivery to maintained primary schools.

All work continues to have a particular emphasis in primary schools around early intervention especially in FS/KS 1 and around transition support from KS2 to KS3. Additionally there have been increased requests to support looked after children; plus deliver specialised packages to enable children/pupils, who are subject to Fair Access/Managed Move protocols, to successfully reintegrate into a new setting.

There are ongoing requests for therapeutic work to support very vulnerable pupils. The team also continues to work with schools to create bespoke packages to enable some very challenging pupils to be included within their school setting or maintain their school place.

- 2.2 Since trading was introduced from 2010, income targets were set and reached. The income raised through traded services has increased steadily year on year.
- 2.3 The team continues to diversify and is working hard to establish itself on a commercial footing by offering training and support to settings other than maintained schools and academies. For example, the team now delivers Positive Behaviour Support and RPI training in social care settings (2014) and RPI packages for Continuing Care Services (2017).

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 The LA has established a working party, bringing together a range of partners who work with children and young people who require support for SEMH. The Behaviour Support Team is part of these discussions. One outcome of the work of this wider group may involve longer-term structural solutions, impacting on a number of services citywide. The future viability of a central support service for schools and settings will be dependent upon the broader strategic decisions that will be made in the coming months and how the team may support a strategic response.
- 3.2 One option is to delegate funding directly to schools, so that all BST interventions are fully traded to maintained schools and no provision is made free of charge. The failure to de-delegate 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 upon 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 for schools and their pupils:

- lack of a preventative service available to schools to support the inclusion of pupils with challenging behaviour/SEMH to remain in school;
- potential increased health and safety and safeguarding risks to both staff and pupils;
- increased risk of exclusion for vulnerable and challenging pupils – both fixed term and permanent ;
- 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 techniques;
- support for SEN processes will be reduced significantly, e.g. HLN and EHCP;
- reduced effectiveness of the CAF/early help planning due to a lack of support from BST;
- no City wide training or Senco Network input around SEMH;
- reduction in support for the primary and secondary Fair Access/Managed Move processes. BST deliver bespoke packages to support named pupils to successfully reintegrate into other settings;

- no BST attendance to represent schools at JCNC or joint working with the HSE around violent incidents;
- reduction in team capacity to support city wide strategic developments such as Routes to Inclusion. These developments aim over time to promote early intervention, reduce long-term support needs and improve outcomes.

3.3 The team has also been exploring a move to a fully traded service by developing processes for longer term commissioning arrangements with schools and other agencies. The team are currently consulting with schools and other commissioners about the possibility of alternative, longer term commissioning arrangements. Delegation of the maintained schools budget would provide an element of certainty for the team while the longer-term processes become embedded.

This longer-term commissioning arrangement would:

- Support recruitment and retention of skilled and experienced staff;
- Enable the team and the schools to implement longer term strategic changes within the setting;
- Provide an opportunity for the commissioners and the team to review all elements of service delivery to ensure that interventions continued to meet future needs of schools;
- Enable the team to develop additional capacity over time.

3.4 A fourth option is to cease to deliver a centrally maintained Behaviour Support Team. Schools and other commissioners would then seek support from commercial services/develop provision within their school/trust.

The risks of such an action are identified in 3.2 above.

The current demand from schools suggests that they value the central team, the flexible response and the range of skills that can be deployed as required.

4 OUTCOMES/DELIVERABLES

4.1 Outcomes delivered 2016/17:

- Increased preventative work – income from traded work has increased year on year as schools are looking at early intervention and therapeutic support.
- Exclusion data:
 1. 135 pieces of casework were undertaken in 2016/17 around pupils cited as vulnerable to exclusion by their school (118 primary and 17 secondary).
 2. 58 pupils (9.81%) that BST were involved with were FTX and 28 of those pupils (48.27%) received only a single exclusion.
 3. 2 pupils that had sustained BST support were PX; and another 2 that had limited involvement were PX.
- 1,159 staff were trained in positive handling/RPI.
- Immediate BST response (via phone consultation or RPI call out to school) to emergency health and safety risks at school – an average of 1 per day.
- Casework data:

	2014/15	2015/16	2016/17
FS/KS1	110	205	272
KS2	78	172	187
KS3/4	74	178	132

- ‘Core’ children – 42 FS/KS1 children in maintained primaries were supported as ‘core’ (*work delivered free of charge to maintained primaries*) by the team as they were deemed to be at increased risk of exclusion.
- Safeguarding – 180 pupils that BST supported had either active social care involvement or TFS/PF. BST attended meetings (e.g. ICPCs, core group) and contributed to reports around these children/pupils.
- EHCP process – BST attended PCRs and completed reports to support the EHCP process for 33 pupils across all key stages.
- HLN:
 - a) HLN 166 pupils received HLN funding under the SEMH (behaviour) criteria: 108 - Band A; 42 - Band B; 16 – Band C.
 - b) 9 x KS1/KS2 children received Band C funding and their school places were being directly maintained through sustained BST intervention.
 - c) An additional 73 pupils received no HLN funding (request did not meet the threshold) but their behaviour gave cause for concern. BST was commissioned by schools to support these pupils.
 - d) BST had active involvement with 150 pupils receiving HLN.
- Reducing financial risks and providing value for money:
 1. maintaining the pupil in school against the cost of a PRU place at £0.015m per pupil;
 2. the cost of a special school place at £0.020m-£0.025m per pupil;
 3. supporting the EHCP process at £0.006m per request.

4.2 In the academic year 2016/17 BST has directly worked in:

1. every City Primary School;
2. 13 of the 15 City Secondaries;
3. 7 of the 9 City Special Schools;
4. 1 free school in the City.

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

1. 2010/11 generated £0.032m
2. 2011/12 generated £0.050m
3. 2013/14 generated £0.098m
4. 2014/15 generated £0.171m (including £0.050m through positive handling training)
5. 2015/16 generated £0.260m (including £0.071m through positive handling training)
6. 2016/17 generated £0.252m (including £0.093m through positive handling training)

Table 1: Behaviour Support Team Projection 2018/19

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Income		
Projected DSG Income Statutory Services	-£0.254m	

Income from schools	-£0.100m	
Income from RPI	-£0.075m	
Income from ad-hoc work	-£0.030m	
Total forecast Income		-£0.459m
Less Expenditure		
Projected Pay costs (gross)	£0.367m	
Projected Non-pay costs	£0.045m	
Total forecast expenditure		£0.412m
Variance		-£0.047m

5 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

- 5.1 As per “The national funding formula for schools and high needs Policy document – September 2017” for the next two financial years (2018/19 and 2019/20) local authorities will continue to set their local funding formula to distribute their schools block funding, in consultation with schools and their School Forum. However, local authorities will be funded based on the new national funding formula. Included within this “soft approach” is the ability for local authorities to be able to still request approval from maintained primary and secondary school representatives on Schools Forum for de-delegated services.
- 5.2 Any decisions made to de-delegate in 2017 to 2018 related to that year only; new decisions will be required for any service to be de-delegated in 2018 to 2019 and 2019 to 2020 before the start of each financial year.
- 5.3 Based on the latest Department for Education indicator data and known academy conversions this proposal would result in maintained mainstream primary schools de-delegating £0.227m and maintained mainstream secondary schools £0.027m.
- 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 and May 2018 (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 4 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.

Julia Holmes
Senior Commercial Business Partner
23rd October 2017

6 LEGAL AND PROCUREMENT COLLEAGUE 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 2017 ("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 16 February 2017.

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 6 (Items That May Be Removed From Maintained Schools' Budget Shares – Primary and Secondary Schools) of Schedule 2 [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(5) (SEYFR, regulation 12(1)(d)).* Part 6 of Schedule 2 of the SEYFR contains paragraph 39, 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 COLLEAGUE COMMENTS

7.1 As outlined in the body of the report, a decision not to continue funding arrangements is likely to lead to further reduction of the service. This would have significant workforce / financial implications relating to potential redundancy situations (that would need to be detailed separately in appropriate reports), including employment / contractual obligations, costs and risks to the authority and costs potentially funded by schools forum budget, and appropriate timelines for both teachers and LG employees. Potential exit payments, including redundancy and

pension strain costs, of any affected post holders would also need to be considered. Staff at risk of redundancy may have access to redeployment opportunities and therefore costs associated with pay protection may also be incurred.

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 an appendix, 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