

SCHOOLS FORUM – October 9th, 2018

Title of paper:	De-delegation of funding for the Behaviour Support Team (BST) in 2019/20
Director(s)/ Corporate Director(s):	Alison Michalska, Corporate Director for Children and Adults John Dexter, Director of Education
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Summary

Funding for the Behaviour Support Team 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 schools and LA to meet their statutory duties.

The funding is targeted towards those children with Social Emotional Mental Health (SEMH) needs where pupils:

- are at high risk of exclusion;
- are either a Foundation or Primary aged pupil;
- 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 2019.

Recommendation(s):

- | | |
|----------|--|
| 1 | <p>For maintained mainstream primary schools to approve the de-delegation of funding for statutory services provided by the BST in 2019/20 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 £0.223m. This is made up of £0.136m generated by pupils eligible for free school meals and £0.087m lump sum funding.</p> |
| 2 | <p>If the proposals for de-delegation are not subsequently approved, due to consultation periods, there may be a risk to a full years saving in 2019/20 and as such a further report would be required to Schools Forum to approve the associated costs.</p> |

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 - Code of Practice (updated 2015);
- Health and Safety Act 1974;
- The Equality Act (2010);
- Children Act - 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 (amended Sept 2018).

1.2 The de-delegated budget will continue to provide maintained Primary Schools with 446 days BST support/intervention, at no cost to school. Each of the maintained Primary Schools will receive 3 days support per year, which is used for strategic planning and development and can include attendance at team around the school meetings.

The remaining 359 days are pooled and allocated on a needs basis according to the criteria listed below; to allow targeted support according to need across the 29 schools.

The nature of the support/intervention offered is negotiated with each school, following a consultation with staff, and the impact of the intervention/support is monitored and measured in conjunction with SLT. Support/intervention can be offered at pupil, class or strategic level.

Support can also include the writing of SEMH HLN requests plus the moderation of SEMH HLN requests.

Criteria for involvement:

1. Primary need of SEMH
2. On a reduced time table/ at risk of exclusion/ being excluded – in spite of evidence of a graduated response
3. Foundation or Primary aged pupil
4. Pupil's behaviour is challenging, aggressive or a danger to others/self
5. Behaviour seriously limits access to the curriculum/learning
6. May require physical intervention or is considered a health and safety risk

1.3 De-delegation for 2019-20 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 commissioned services for maintained schools and academies.

Where schools commission support the detail of support will be negotiated between the school and BST.

Services (as detailed in our brochures) may include:

- de-escalation and physical intervention training plus positive behaviour support;
- therapeutic interventions e.g. Play Therapy, Theraplay, Special Play, Sunshine Circles, Art Imaging;
- personalised or group support for an identified pupil;
- staff coaching/mentoring;
- Senco support (e.g. planning provision for SEMH pupils)
- observations – whole class, pupil or fixed interval sample;
- inset training;
- mid-day Supervisor training;
- behaviour and lunchtime audits;
- parenting programmes (e.g. Solihull, Triple P) or bespoke parenting support;
- strategic work e.g. review/rewrite school's behaviour policy, support with risk reduction strategies;
- practical support to schools in the Ofsted overall effectiveness grade around Personal Development, Behaviour and Welfare eg behaviour or environmental audits, revising behaviour policies, strategic support to reduce behaviour risks, PSCE training etc;

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

2.1 The team currently comprises 4.4 full time equivalent (fte) teachers, 3.25 (fte) Behaviour Learning Mentors and 0.8 administration support. Over the last year, staffing has again reduced and models of service delivery are regularly reviewed, in order to offer continued value for money and provide a more efficient service delivery. BST costings continue to be competitive and represent value for money.

Within the local region – there are still no other dedicated behaviour support teams. Schools however are able to purchase elements of BST services from other commercial providers (e.g. Team Teach or private therapists) - however, no other provider offers the full range of services that BST delivers as a single team; plus the team's in-depth knowledge of the City, the schools and families is a significant benefit to school staff.

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 work to all settings as well as work that is free at the point of delivery to maintained primary schools. All traded work, including physical intervention training, which is purchased by maintained schools is still billed at a discounted rate to maintained schools, saving schools between 10-20 % on the cost of all training and traded work (which averages out at £500 per maintained primary school).

There have been continued requests to support and work with looked after children; as well as deliver specialised packages to enable pupils, who are subject to Fair Access/Managed Move protocols, to successfully reintegrate into a new setting (which is commissioned by the LA). Every primary aged pupil supported by BST

through Fair Access has integrated well into their new setting, remained on roll and not been permanently excluded.

Primary schools continue to value early intervention and transition support. There are also ongoing requests for therapeutic work to support very vulnerable pupils. The team, furthermore, 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. This work is delivered through de-delegated funding to those who meet the criteria; or through HLN, pupil premium funding or traded packages.

- 2.2 Since delegation of funding to academies was introduced the income raised through traded services has increased steadily year on year to complement the funding from maintained schools. The team continues to diversify and is working hard to establish itself on a commercial footing by offering training and support to other settings and agencies, including additional commissioning by the LA (e.g. Routes to Inclusion).

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 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:

- increased risk of exclusion for vulnerable and challenging pupils – both fixed term and permanent;
- reduction in access to support, including RPI, from a team which has extensive knowledge and strong relationships with Nottingham City Schools;
- 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;
- lack of a preventative service available to schools to support the inclusion of pupils with challenging behaviour/SEMH to remain in school;
- potential increased risk of physical injury and safeguarding risks to both staff and pupils which could result in costly litigation through inappropriate handling;
- support for SEN processes will be reduced significantly;
- reduced effectiveness of early help planning due to a lack of support from BST;
- no City wide training around SEMH;
- reduction in support for the primary Fair Access/Managed Move processes. BST deliver bespoke packages to support named pupils to successfully reintegrate into other settings;
- no BST input (to represent schools) at JCNC or joint working with the HSE around violent incidents;

- reduction in team capacity to lead, develop and support city wide strategic initiatives such as Routes to Inclusion and the Exclusion Project - which aim to reduce exclusions, build capacity within schools, embed a graduated response etc. The expertise and skill set of the Behaviour Support Team is vital to the success of these initiatives and the overarching aim of maintaining placements and reducing expenditure on exclusions.

3.2 The team continues to explore and work towards a move to a fully traded service by developing processes for longer term commissioning arrangements. De-delegation of the maintained schools budget would provide an element of certainty for the team while the longer-term processes are finalised and become embedded.

This longer-term commissioning would:

- Support the recruitment and retention of skilled and experienced staff;
- Enable the team to develop additional capacity over time, if required;
- Provide an opportunity for commissioners and the team to review all aspects of service delivery to ensure that interventions offered continued to meet the future needs of schools.

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

The risks of such an action are identified in 3.1 above.

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

4 OUTCOMES/DELIVERABLES

4.1 Outcomes delivered 2017/18:

- 1,592 staff were trained in positive handling/RPI, an increase of 433 on the previous year.
- Increased preventative work – income from traded work and buy back has increased year on year as schools are looking at early intervention and therapeutic support.

Buy back figures (excluding pay-as-you-go/ad hoc work):

2015/16	2016/17	2017/18
£99,208	£125,908	£129,040

- Exclusion data:
 1. 186 pieces of casework were undertaken in 2017/18 around pupils deemed vulnerable to exclusion by their school (153 primary and 33 secondary).
 2. 6 (3.92%) of the primary pupils deemed vulnerable to exclusion were PX: however at the time of their permanent exclusion BST was only actively involved with 3 (1.92%) of them. All were PX for violence.

3. 4 of the secondary pupils deemed vulnerable to exclusion were PX: however BST was requested to work with the pupils at point of crisis - so BST involvement had only just started when the pupils were permanently excluded.
4. **Savings generated:** $186-6-4=176$ pupils not excluded
 $176 \times \text{£}15,000$ (cost of a PRU place) = **£2,640,000**.

- Casework data:

	2014/15	2015/16	2016/17	2017/18
FS/KS1	110	205	272	196 (68 M & 128 A)
KS2	78	172	187	413 (164 M & 249 A)
KS3/4	74	178	132	64 (6 M & 58 A)
TOTAL	262	555	591	673

- Under the former criteria - 107 pieces of casework undertaken with pupils in maintained primaries as 'core' (***work delivered free of charge to maintained primaries***) by the team as the pupils were deemed to be at increased risk of exclusion (average cost and saving to each maintained primary - £1,466). Under the new criteria for involvement – 173 hours of work has been delivered free of charge to maintained primaries from April-July 2018. As the new criteria and structure has only been running for 1 term, the data that can be provided to demonstrate impact is currently limited.
 Initial data for the 2018 Summer term: 143 hours of direct casework was undertaken and the CYP remained on their school role; 19.5 hours of strategic planning with SLT to strengthen SEMH provision; plus 10.5 hours of TAS (team around the school meetings).
- Safeguarding – 168 pupils that BST supported had either active social care involvement or TFS/PF. BST attended meetings and contributed to reports around these children/pupils.
- Immediate BST response (via phone consultation or RPI call out to school) to emergency health and safety risks at school – continues at an average of 1 per day
- EHCP process – BST attended PCRs and completed reports to support the EHCP process for 29 pupils across all key stages.
- 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 (17/18 saving = £2,640,000);
 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 2017/18 BST has directly worked in:

1. every City Primary School;
2. 14 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)
7. 2017/18 generated £0.270m (including £0.117m through positive handling training)

Table 1: Behaviour Support Team		
Forecast income and expenditure for the financial year 2019/20		
	£millions	£millions
Income		
Forecast DSG income from maintained schools	-0.223	
Income from schools	-0.110	
Income from RPI	-0.114	
Income from BST ad-hoc work	-0.046	
Total forecast income		-0.493
Less Expenditure		
Teachers	0.303	
Learning Mentors	0.144	
Admin	0.020	
Apprenticeship Levy	0.002	
Resources/Stationery	0.002	
Printing/Photocopying	0.002	
Training/Room Hire/RPI Licences	0.010	
Mileage/Staff Health	0.005	
Insurance	0.004	
IT/Phones	0.002	
Total forecast expenditure		0.493
Total Variance		0.000

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

- 5.1 As per “The national funding formula for schools and high needs 2019 to 2020 Policy document – July 2018” for the next two financial years (2019/20 and 2020/21) local authorities will continue to set their local funding formula to distribute their schools block funding, in consultation with schools and their School Forum.

Paragraph 5 & 6

“We are pleased to see the significant progress across the system in moving towards the national funding formula in its first year.

In light of this progress, and in order to continue to support a smooth transition, we are confirming that local authorities will continue to determine local formulae in 2020-21”

Local authorities will continue to 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 2018 to 2019 related to that year only; new decisions will be required for any service to be de-delegated in 2019 to 2020 and 2020 to 2021 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 £0.223m. As the remaining maintained secondary school is due to academise on 1 November 2018 and the fact that they have not previously bought into this service they have not been included in this report.
- 5.5 If the proposal outlined in recommendation 1 is not approved, as outlined in paragraph 7.1, there would be significant workforce implications. Any redundancy costs would be met by the Local Authority.

Due to consultation periods, there may be a risk to a full years saving in 2019/20 and as such a further report would be required to Schools Forum to approve the associated costs.

Julia Holmes
Senior Commercial Business Partner
27 September 2018

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 2018 (“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 5 February 2018.

6.1.2 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 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 40, 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.

11/09/18 Jon Ludford-Thomas, Senior Solicitor

7 HR COLLEAGUE COMMENTS

- 7.1 ***As outlined in the content of this report, a decision not to continue funding arrangements is likely to lead to the team being disestablished within the structure. This would have significant workforce implications and also financial implications in terms of costs relating to redundancy situations. (Details would need to be presented in a separate Chief Officer and Departmental Management Report.)***

If the decision is to cease funding, management must ensure a plan is in place with appropriate timelines to undertake genuine and meaningful consultation with both Trade Unions and affected individuals. If at the end of consultation, proposals remain the same, individuals must be given appropriate contractual notice to terminate their contracts on grounds of redundancy. Potential exit payments, including redundancy and pension strain costs of any affected postholders 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.

Leanne Sharp
HR Consultants – Children’s and Adults
13th September 2018

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

10 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

10.1