

Cabinet Member for Children, Education and Skills – Cllr Laura Mayes

SEND and Inclusion

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Service level agreement for funding delegated to secondary schools to support learners at risk of exclusion

Purpose of Report

1. This report recommends that Cabinet approves the Service Level Agreement (SLA) for funding delegated to secondary schools to support learners at risk of exclusion.
2. The SLA 2021-2023 is an evolution and replacement of the current service level agreement that expires at the end of December 2020.
3. The agreement commits the Council to work in partnership with signatories to ensure that all learners have access to quality education provision in school and at alternative provision when appropriate.
4. The agreement is supported by the SEND Inclusion Strategy 2020-2023, a key priority area of which is inclusion and removing exclusion in education.

Relevance to the Council's Business Plan

5. This report is relevant to the following Business Plan 2017-2022 priorities:
 - i) Priority: Growing the economy
High quality special educational provision in all schools; ensuring that all pupils achieve the best possible outcomes and go on to enjoy the best start to adult life
 - ii) Priority: Strong Communities
Focus on delivering the educational provision, in-county, that children and young people with special education needs and/ or disability (SEND) require – the right education provision, at the right time, in the right place
 - iii) Priority: Protecting those who are most vulnerable
 - Ensuring that children and young people with SEND can have the best education and support, provided in good quality estate
 - Work with schools to support children who are vulnerable to underachievement
 - iv) Priority: Innovative and effective council
 - Doing things differently to ensure that the Council can meet its statutory duties to provide the right education provision in the face of a rising population and growing demand
 - Improving the focus on outcomes for all pupils with SEND

Background

6. In February 2014 Cabinet agreed for arrangements to be put in place following the end of a Department for Education trial on permanent exclusion and alternative provision.
7. These arrangements took the form of a SLA relating to funding for the provision of personalised learning to excluded pupils and those at risk of exclusion between Wiltshire Council and secondary schools. The SLA has successfully overseen these delegated funds since that time.

Main Considerations for the Council

8. The main considerations for the Council are:
 - There needs to be an arrangement in place by January 2021 to secure the provision of suitable education for permanently excluded pupils so that the Council can fulfil its responsibility under section 19 of the Education Act.
 - As the Council can no longer make such provision directly, it needs to decide how to secure the best provision for a highly vulnerable group of young people and, therefore, which third party would be the most effective and provide the best value for money.
 - How to ensure stability and continuity for those pupils already in alternative provision.
 - How best to build upon the good practice that schools have developed to date through the SLA.
 - How to monitor the third party delivering the provision to ensure that its responsibility is being delivered effectively.

Overview and Scrutiny Engagement

9. The draft strategy has been presented to:
 - The FACT Board
 - The regional schools' meetings
 - Secondary headteachers Inclusion working groups
10. A briefing will be offered to the Chairman of Children's Select Committee

Safeguarding Implications

11. The young people who are the subject of this provision are highly vulnerable. However, they are currently being provided for by secondary schools who have to have strong safeguarding procedures or by alternative providers who have been through quality assurance as part of a Wiltshire Approved Alternative Provision process.
12. As the proposal continues with an existing arrangement in terms of provision, it does not in fact create additional safeguarding issues. Schools are already tightly

monitored in terms of safeguarding and there will be monitoring of the provision for the young people concerned on a named individual basis.

Public Health Implications

13. The wellbeing and health of our children and young people is clearly at the heart of this SLA. New Area Inclusion Meetings will be working to improve the health and wellbeing of children and young people enabling them to be confident members of their communities.
14. This should both maintain our commitments within public health as well as the wider commitments within the Wiltshire business plan (2017 – 27), but more importantly, building on our commitment to partnership, genuinely enable our children and young people to thrive in our communities.

Procurement Implications

15. There are no direct implications for procurement although a number of the intended projects may involve procuring services. This will be taken through appropriate processes as required by the council Part 10 Procurement and Contract Rules.

Equalities Impact of the Proposal

16. The main deliverers of provision will be secondary schools that already have robust equalities policies and alternative providers who have been through an accreditation process.

Environmental and Climate Change Considerations

17. There are no additional environmental issues because the existing arrangements will not result in the creation of a greater carbon footprint.

Risks that may arise if the proposed decision and related work is not taken

18. If a decision is not taken there will be the following risks:
 - 1) If no decision is taken once the SLA ends, the responsibility for providing a suitable education for permanently excluded pupils will return to Wiltshire Council without there being any arrangement in place for the Council to fulfil this responsibility.
 - 2) In the absence of a decision, secondary schools may assume that money will no longer be devolved, cease their preventative work and begin to permanently exclude pupils again, leaving the Council to find a way to make provision. This would put at risk a highly vulnerable group of young people.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

19. Risks that may arise if the decision is taken:

- 1) Some secondary schools may decide they do not wish to be part of the arrangement and decline the money, leaving the Council with the need to make provision for any pupils permanently excluded by those schools.

20. Action has already been taken to manage this risk. The SLA prescribes:

Non-signatories

21. This agreement represents Wiltshire Council and schools' commitment to inclusion to enable Wiltshire learners to progress, thrive and achieve good long-term outcomes. By deploying and monitoring resources in this way, signatories are confident that school inclusive practice is strengthened for the benefit of all Wiltshire learners.

- i. If a school were to decide not to sign the SLA:
 - Outcomes for vulnerable learners including those at risk of exclusion at that school would continue to be monitored.
 - The school would not receive devolved high needs block funding for alternative education. Instead, this would be held by the Council to be used to fund any placements in AP resulting from any permanent exclusion from that school. The school would still be expected to include learners and avoid exclusions to avoid placing a disproportionate burden on other schools and
 - If multiple permanent exclusions occur that place a burden on local resources, such that this was risking diminishing the resources of the Council or increasing pressure on capacity at alternative provision within the County, information about this would be escalated through the Wiltshire Inclusion Strategic Group, and in exceptional circumstances, the Regional Schools Commissioner.
- ii. All secondary schools may decide that there is not enough money because of the increasing numbers of "hard to place" young people coming in from neighbouring authorities.

22. Schools receive additional Out of County funding for these young people which is allocated through In Year Fair Access arrangements.

- iii. Some schools may not provide education that would be deemed suitable in terms of section 19 of the Education Act.

23. This risk will be managed through the monitoring systems that underpin the SLA. Data will be regularly collected from secondary schools about named individual pupils.

24. There will be a programme of sampling of the provision that schools have in place for these pupils. In addition, through its attendance at the three secondary In Year Fair Access Panels, the Council is part of the discussions about provision for most of these pupils.

Financial Implications

25. Under the Permanent Exclusions and Alternative Provision Trial, Wiltshire Council devolved to secondary schools approximately £2.6 million. The money was devolved to individual secondary schools using a formula agreed with headteachers that takes into account school numbers, social deprivation and service children. The formula has worked well and headteachers have no desire to change it.

26. Money would continue to be devolved in this way for the next two years and three months beginning with 1 January 2021.

Legal Implications

27. The Council's current SLA with secondary schools is for them to make provision for pupils who have been permanently excluded or who are at risk of permanent exclusion to enable the Council to fulfil its responsibility under section 19 of the Education Act.

28. In order to facilitate agreement, the service level agreement was based on that which was in place during the Trial, produced by the Council's Legal Services and discussed by them with solicitors acting on behalf of the secondary schools. The Council's Legal Services have reviewed and agreed this proposed SLA for 2021-2023.

Workforce Implications

29. There are no specific Human Resource implications in implementing this strategy.

Options Considered

30. The options considered are as follows:

- a) To adopt a position where the Council de-delegates the funding.
- b) To renew the current SLA unchanged,
or
- c) Continue the devolution of funding to schools and agree the updates to the Service Level Agreement.

Proposal

31. None of the options gives the Council direct control of provision. The devolution of funds to secondary schools has been effective in reducing fixed and permanent exclusions, stimulating preventative work and raising achievement. Secondary

headteachers are in favour of continuing this arrangement and doing so will enable them to continue to build on the work they have done. It will provide continuity and stability for a highly vulnerable group of young people.

Reasons for Proposal

- a. This option has been rejected, as this position is inconsistent with the DfE vision to strengthen partnership arrangements for commissioning and delivering alternative provision set out in Creating Opportunity for all (2018). It is likely to be more expensive and create more turbulence.
- b. This option has been rejected as the current SLA needed to reflect changes in working practice as well as updated monitoring and reporting requirements of schools and the Council.
- c. This option maintains stability and strengthens the good work already established with schools. It is therefore the best option for the Council to adopt.

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Appendices

Draft Service Level | Agreement 2021-2023

Background Papers

None