

Item No.	Classification: Open	Date: 3 April 2018	Decision Taker: Cabinet Member for Children and Schools
Report title:		Special Educational Needs and Disability (SEND) Provision Strategy Report	
Ward(s) or groups affected:		Electoral ward(s); ALL	
From:		David Quirke-Thornton Strategic Director, Children's and Adults' Services	

RECOMMENDATIONS

1. That the SEND Provision Strategy as set out in Appendix 1 be agreed.
2. Further to priority 5 of the strategy to begin preparatory work to facilitate of in-borough 19+ provision for pupils with complex SEND:
 - Open a specialist college for young adults with learning difficulties aged 19 to 25. The aim of the college would be to prepare the students for employment by offering work experience placements tailored to individual needs. The focus of these placements will be the structured teaching of vocational skills. Students will also gain accreditation in other areas. (see Appendix 2)
 - Make a first tranche of the SEND capital fund allocation available to Spa school to make premises secure and fit for purpose for students in 2018-19.

BACKGROUND INFORMATION

3. The Government has committed £215 million of capital funding to help local authorities create new school places and improve existing facilities for children and young people with SEN and disabilities, in consultation with parents and providers. This funding can be invested in mainstream schools and academies, special units, special schools, early years settings and further education colleges, or to make other provision for children and young people aged from 0 to 25. The allocation for Southwark is £549,625 for each of the years 2018/19, 2019/20 and 2020/21, a total of £1,648,875.
4. The Government requires local authorities to complete and publish a short plan that sets out how they intend to invest their allocation, which is visible to parents, carers and other local groups. The council have consulted upon and finalised the SEND Provision Strategy (**Appendix 1**) which identifies priorities for developing SEND educational provision for young people in Southwark to keep pace with demand, share best practice and expand the opportunities to access high quality provision so that it is locally available to all Southwark young people and families who need it

By Wednesday 14 March 2018	Local authorities must publish the short plan on their local offer page
Summer 2018	Local authorities that have published the plan and consulted with parents, carers and young people will receive the first tranche of funding
March 2019	Local authorities should update and republish their plan to show what they have spent on so far
Summer 2019	Local authorities will receive the second tranche of funding
March 2020	Local authorities should update and republish their plan again
Summer 2020	Local authorities will receive the third tranche of funding
March 2021	Local authorities should update and republish their plan a final time, to show how all money was eventually spent

KEY ISSUES FOR CONSIDERATION

5. In Southwark and nationally the overall number of pupils with a statement or EHC plan has been increasing year on year. The number of children and young people with EHCPs in need of additional, different or specialised provision, has increased by 27% over three years between 2014-2017 with a 10% increase between 2016-17. If this year on year trend continues, by 2021/2022 there could be as many as 2900 children and young people with EHCPs with a need for additional places and high needs provision in Southwark's mainstream and special schools.
6. This picture is replicated in most inner London boroughs. This has put a pressure on the number of commissioned places available in maintained provision and has meant an increase in the number of children and young people needing to access specialist, high-cost provision out of the borough.
7. The SEND capital fund is to support local authorities to invest in provision for children and young people with SEN and disabilities aged 0-25 to improve the quality and range of provision available to the local authority. It is intended for the children and young people with education, health and care plans for whom the local authority is responsible. The Local authority is required to publish a plan that sets out how they intend to invest their allocation, which is visible to parents, carers and other local groups.
8. Section 27 of the Children and Families Act 2014 requires Local Authorities to keep the education, training and social care provision made for disabled children or young people and those with SEN under review.
 - The views of children, their parents, and young people should be central to the way local authorities review their services and they must be consulted about services currently available.
 - Local authorities must also consider whether the provision is sufficient to meet children and young people's needs.

- The Local Authority should take all reasonable steps to ensure that provision is of high quality and provides good value for money.
 - Local authorities and institutions should collaborate on all aspects of high needs funding to develop more efficient ways of working and better outcomes for children and young people.
9. Before receiving the LA allocation of the Special Provision Capital Fund the local authority was required to consult with parents and carers of children with SEN and disabilities and young people with SEN and disabilities. Responses to consultations with young people and families have been overwhelmingly positive. Parents of young people with SEND strongly support the key priorities of the strategic plan: they want high quality provision for their children and young people locally, in Southwark.
10. The adoption of the strategic plan has positive financial implications in the access to grant monies and on existing and planned expenditure from the high needs block and other areas of Children and Adults Services. The average cost of out of borough placements of all kinds for young people of statutory school age is £37,146 per pupil. In addition to providing for increasing demand and offering Southwark families greater choice, the additional 169 in-borough special places generated by the expansions and new Free special school referred to in the Strategy will offer opportunities for many fewer out-of-borough placements to be made with associated savings in the high needs block. This is also the case regarding the planned expansion of the secondary ASD resource base offer.

19 – 25 Students

11. The change from statements of SEN in to EHCP's in September 2014 extended Local Authority statutory responsibilities to assess and provide for SEND for young people from age 0 -25. Furthermore the Local Authority now directly funds all additional provision and placements for students with EHCP's until age 25 from the high needs block.
- SEND students with complex needs attend good or better provision in Southwark from KS1 – KS4 and achieve well. This continues in Southwark Special school 6th forms.
 - Local FE provision has been judged by inspectors to be less than good since 2012 and despite recent improvements in opportunities for students in receipt of high needs funding, existing FE provision offers no progression or consistency for complex SEND students consequently they do not sustain engagement.
 - Vocational training is not fit for purpose for SEND students and employment outcomes are poor.
 - Students with high level/complex needs require long-term, individually supported work place programs as a key component of 19 - 25 provision if they are to develop the vocational and life skills to attain and sustain independent living – these opportunities are not offered locally.
 - Local FE provision has a poor record of providing support for the often complex health/personal and safeguarding needs of complex SEND

students and of providing access to therapies and appropriate

12. Students aged 19 – 25 placed in Independent Specialist Provisions (ISPs) usually have a combination of education, care and health needs. Cohort size has ranged from 24 to 32 students over the past four years. This is a relatively stable cohort although numbers may rise with population growth. These students have their special educational needs and disabilities identified earlier in their education if not before, so needs in the 19 to 25 age group are relatively easy to predict and plan for. ISP placements incur education, social care, health and transport costs.

Students in ISPs 2014-17

	Number of students	Education	Social Care	Health	Transport	Total cost
2016/17	32	£1,467,436.03	£487,674.63	£50,539.48	£459,705.00	£2,465,355.14
2015/16	24	£1,159,224.75	£375,773.90	£25,881.70	Not available*	
2014/15	24	£1,057,359.96	£504,991.38	£34,460.71	Not available*	
2013/14	29	£1,346,149.47	£289,309.88	£51910.98	Not available*	

13. The implementation of the SEND education provision strategy presents opportunities for significant immediate and ongoing savings in SEND (education) and Social Care placement costs. Southwark currently places 32 students in independent special colleges at an average education cost of £45,000 per annum. There is also an average additional cost of £31,000 per placement from social care, health and to cover transport. The projected place cost for local SEND college provision when established and registered is £30,000 - a saving of 33% per student with the expectation of reduced costs against other budgets particularly transport.

14. Savings / Reduced expenditure over time.

YEAR	NEW PROVISION	ADDITIONAL PLACES	PROJECTED SAVING (TOP UP FUNDING) £
2018/19	Southwark SEN College (Post 19)	8	120,000.00
2019/20	Southwark SEN College(Post 19)	20	300,000.00
2020/21	Southwark SEN College	32	480,000.00

15. Commitments identified in the proposed Special Educational Needs and Disability (SEND): Education Provision Strategy include set-up costs for Southwark SEND College a specialist college for young adults with learning difficulties aged 19 to 25. The aim of the college would be to prepare the students for employment by offering work experience placements tailored to individual needs. The focus of these placements will be the structured teaching of vocational skills. Students will also gain accreditation in other areas.

16. To make local provision available and begin reducing excess expenditure from HNB as soon as possible the LA proposes to move forward on commissioning local 19+ complex SEND places. The authority would make available £150,000 from the SEND capital fund allocation to Spa school so that preparatory works can begin immediately to ensure an initial cohort can attend the provision in September 2018 (see projected savings above). This work will require forward funding.

See Appendix 2: Proposal to establish a Special Needs College

Community impact statement

17. The Public Sector Equality Duty, at section 149 of the Equality Act, requires public bodies to have due regard when carrying out their activities to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with protected characteristics and those with none. The council's Approach to Equality ("the approach") commits the council to ensuring that equality is an integral part of our day to day business.
18. "Protected characteristics" are the grounds upon which discrimination is unlawful - the characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender and sexual orientation. In this case, the characteristics covering gender reassignment, marriage and civil partnership, pregnancy and maternity, and sexual orientation are unlikely to be issues for consideration in the expansion of the schools in question.
19. An equalities and health analysis demonstrate that the strategy and the establishment of post 19 provision shows no potential for discrimination, but rather advances equality of opportunity and fosters good relations between people with protected characteristics. Enabling the expansion of post 19 provision to meet demand has the potential to advance equality of opportunity, and foster good relations between people with protected characteristics and those with none.
20. There are no specific equality implications as regards age, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender and sexual orientation. For disability, the strategy and the enabling of a post 19 facility presents considerable opportunities to advance equalities for service users with learning disabilities, including ASD.

Resource implications

21. As already discussed in the "Key issues for consideration" section, the adoption of the strategic plan has positive financial implications in the access to grant monies and on existing and planned expenditure from the high needs block and other areas of Children and Adults Services. The average cost of out of borough placements of all kinds for young people of statutory school age is £37,146 per pupil. We also drew attention to the fact that, on addition to providing for increasing demand and offering Southwark families choice, the additional in-borough special places will offer considerable savings with many less expensive out-of-borough placements being made. This is also the case regarding the expanded secondary ASD resource base offer.
22. The adoption the strategy will secure access to the allocation of the SEND capital fund for Southwark of £549,625 for each of the years 2018-19, 2019-20 and 2020-21, a total of £1,648,875. Failure to adopt the strategy would mean that the authority would not gain access to these funds.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

23. The report seeks the cabinet member's approval of the SEND provision Strategy and to agree to the commencement of preparatory works to facilitate the provision of places for young people aged 19-25.
24. The report advises that in 2017, the government announced new capital funding to be made available to local authorities to invest in provision for children and young people with SEN and disabilities aged 0-25, to improve the quality and range of provision available. The government has published guidance (*Special Provision Capital Fund Guidance*, August 2017) setting out criteria for how the funding is to be applied.
25. The report refers to the duty on the local authority in section 27 Children and Families Act 2014. The local authority is required to keep under review the educational, training and social care provision made in its area for children and young people with special educational needs or a disability, and further must consider the extent to which the provision is sufficient to meet their educational, training and social care needs. Further, in relation to education and training of young people over compulsory school age, the local authority must secure that enough suitable education and training is provided to meet the reasonable needs of this group (section 15ZA Education Act 1996). It can therefore be said that the production and approval of a strategy directed at the provision of education for children and young people with special educational needs and disabilities, and approval the preparatory works to facilitate the post-19 provision described in the report and at Appendix 2, is consistent with the council's duties outlined here.
26. The agreement of strategies in relation to their areas of responsibility and the approval of grants are decisions that are capable of being taken by the cabinet member in accordance with Part 3D of the Council's constitution.
27. With reference to the consultation referred to in the report, the council must adhere to the principles enshrined in *R (Moseley) v Haringey London Borough Council* (2014), namely that consultation must always (i) take place at a formative stage; (ii) give sufficient reasons to permit intelligent consideration and response; and (iii) give adequate time for a response. Further, the response to a consultation must be conscientiously taken into account by a decision-maker before finalising any proposal.
28. As regards the community impact statement of the report, section 149 Equality Act 2010 requires the council, in the exercise of all its functions, to have due regard to the need to
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The duty is an ongoing one.

Strategic Director of Finance and Governance

27. The cost of placements for SEND pupil is met from the High Needs block of the Dedicated Schools Grant. The number of pupils with SEND is expected to grow while the funding from central government is not expected to increase in line with this. This strategy is built to control the cost of provision. There is a risk that that demand for places outstrips the provision.
28. Further financial and policy strategies are being worked on alongside this report to ensure that the high needs expenditure remains within the resources available. The Schools Forum will consider setting up a sub-group on the 22 March 2018 to work with the Local Authority to ensure that the High Needs block will be in balance in the future. There is no immediate impact on the Core Funding, but if in the future the High Needs Block remains overspent then this may fall on the Core.
29. The proposal to provide for in-borough 19+ provision will be met fully from a capital grant. The revenue funding will need to be met from the High Needs block but will be at a lower cost than out of borough provision.
30. If the venture fails the council may be liable for any redundancy payments made to staff employed or the cost of termination clauses in contracts.
31. The precise terms of reference of the capital grant have not been received but it is believed that if the venture fails there will be no clawback of the grant, but there is a risk that this may happen.

APPENDICES

No.	Title
Appendix 1	Southwark Council - Special Educational Needs and Disability (SEND): Education Provision Strategy
Appendix 2	Proposal to Establish a Special Needs College in Southwark

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

AUDIT TRAIL

Lead Officer	Nina Dohel, Director of Education, 020 7525 3755	
Report Author	Ian Morris Senior Adviser SEN/Inclusion (0-19 Standards)	
Version	Final	
Dated	3 April 2018	
Key Decision?	Yes	
CONSULTATION WITH OFFICERS/DIRECTORATES /CABINET MEMBER		
	Officer Title	Comments Sought
	Director of Law and Democracy	Yes
	Strategic Director of Finance & Governance	Yes
	Cabinet Member	No
	Date final report sent to Constitutional Team	3 April 2018