

Notice of Non-key Executive Decision

Subject Heading:	Outline Proposals to address Early Years, Primary, Secondary and SEND rising rolls – Update to Phase 4 and Phase 5 expansion Programme – Publication of statutory notice for the establishment of a new designated SEND unit for pupils with Communication and Interaction needs at St Edward’s Church of England Voluntary Aided Primary School
Cabinet Member:	Councillor Robert Benham, Deputy Leader of the Council, Cabinet Member for Education, Children & Families
SLT Lead:	Robert South, Director Children’s Services
Report Author and contact details:	Pooneeta Mahadeo School Organisation Manager pooneeta.mahadeo@havering.gov.uk 01708 431092
Policy context:	The local authority has a legal duty to meet the special educational needs of those children for whom it is responsible. The needs of pupils who require <i>provision additional to or different from that generally available</i> is determined by a formal assessment pursuant to the Children and Families Act 2014.
Financial summary:	The administrative costs of publishing the statutory notice and proposal can

Non-key Executive Decision

	<p>be met from existing revenue budgets.</p> <p>Implementation of notice expected to cost £1.3m and this will be met within the SEND Capital grant.</p>
Relevant OSC:	Children and Learning
Is this decision exempt from being called-in?	Yes

Non-key Executive Decision

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Place an X in the [] as appropriate

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The decision is to publish, in accordance with DfE Guidance, a statutory notice and prescribed information setting out the Local Authority's formal proposal to establish a new designated SEND unit for pupils with Communication and Interaction needs at St Edward's Church of England Voluntary Aided Primary School.

School	Designated SEND unit	No of pupils
St Edward's Church of England Voluntary Aided Primary School	Communication and Interaction Needs (ASD and SLCN)	12 (4-11 years)

The statutory notice is included as Appendix 1.

AUTHORITY UNDER WHICH DECISION IS MADE

Cabinet made the following decision , at its meeting on 18 September 2019,

4. Delegate the power to take further decisions regarding the implementation of these proposals and the approval of which settings/schools should be expanded including any amendments to the proposals above, such as a decision not to proceed or to expand a different setting/school, in the light of developing circumstances or the results of consultation (subject to the appropriate statutory processes) for Phase 5 of the Expansion Programme to the Lead Member for Children & Learning.

STATEMENT OF THE REASONS FOR THE DECISION

The Cabinet decision of 18 September 2019 included the following:

3.2.3. Increasing SEND Places

ii. Primary SEND places;

Agree to establish

- One Additionally Resourced Provision (ARP) for primary children with Communication and Interaction Needs with 12 places in Scotts Primary School for 2020/21.
- One Additionally Resourced Provision (ARP) for primary children with SEMH (Social, Emotional, Mental and Health) needs with 12 places at Suttons Primary School for 2020/21
- An ARP for 12 places (4-11) for pupils with ASD/SEMH on Beam Park School for 2021/22

Non-key Executive Decision

- An ARP for 18 places – 6 places (2-4) and 12 places (4-11) for pupils with ASD and SEMH for 2023/24 as part of the Bridge Close development

The proposal to establish an ARP at Scotts Primary School did not go ahead due to leadership changes and hence this proposal is being considered at St Edward's Church of England Voluntary Aided Primary School.

The following table shows the projected number of primary school aged Havering residents with an Education Health Care Plan (EHCP) of Communication and Interaction needs:

Academic year	Communication and Interaction
2020/21	357
2021/22	442
2022/23	487

As can be seen in the above table, the actual number of primary aged pupils with Communication and Interaction needs in 2020/21 was 357. Two years later, this figure is projected to increase to 487, an increase of 36%.

If implemented, this designated SEND unit for pupils with Communication and Interaction needs will be a bespoke provision specifically adapted to meet each pupil's needs through a flexible and tailored approach.

The designated SEND unit will help address the gap in provision for pupils with Communication and Interaction needs and provide increased opportunities for pupils with special educational needs and disability (SEND) to remain and be taught within their local community, making it easier for parents to be actively involved.

The expectation is that this local provision will provide good value for money as it will reduce the cost of out borough placements and the need for pupils to travel long distances away from their families in order to access the support they require.

The LA is required to follow a statutory process to establish/remove/alter SEN provision in a mainstream school.

Statutory Proposal Timeline

Key milestones	Date
Statutory Stage 1 – Publication of Statutory Notices	10/09/2021
Statutory Stage 2 – Representation Period (formal consultation)	08/10/2021
Statutory Stage 3 - Decision on proposals The decision-maker (usually the LA) must decide proposals within 2 months of the end of the	

Non-key Executive Decision

representation period or decision defaults to Schools Adjudicator (OSA). Any appeal to the adjudicator must be made within 4 weeks of the decision.	November 2021
Statutory Stage 4 – Implementation	As specified in the published statutory notice, subject to any modifications agreed by the decision-maker

OTHER OPTIONS CONSIDERED AND REJECTED

Pupils with complex SEN could be also educated within special schools. Expansion of existing special schools is not feasible within the required timeframe due to space constraints. Development of a new special school is extremely costly and has a long lead in time and as such is not an option in the short term.

The Council is therefore looking to increasing capacity within its existing resources and is focusing on developing new provision within its own schools. It is therefore proposing to create a number of designated SEND units in the mainstream, particularly in the areas where there are shortages of provision.

PRE-DECISION CONSULTATION

Although there is no longer a prescribed 'pre-publication' consultation period for prescribed alterations, there is a strong expectation on schools and LAs to consult interested parties in developing their proposal prior to publication as part of their duty under public law to act rationally and take into account all relevant considerations.

Consultation took place from ran from 7 June 2021 to 5 July 2021. A total of 29 responses were received. Of the 29 responses received, 26 (90%) were in favour of the establishment of the ARP while 3 (10%) respondents were against the proposed ARP. The main issues raised from those against the proposal were:

- Increased traffic
- Need to get additional staff for the ARP and not use existing staff from the school
- The borough is consulting on another ARP for ASD while the need for ARPs with SEMH is greater.


The consultation report is included as Appendix 2.

Non-key Executive Decision

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Pooneeta Mahadeo

Designation: School Organisation Manager

Signature: 

Date:03/09/2021

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

A non-statutory informal consultation has been carried out the results of which are set out in appendix 2. The decision maker should pay careful regard to the responses received before making a determination.

In relation to provision for special educational needs in a mainstream school, the LA has to follow a statutory process for –

- (a) The establishment of a provision that is recognised by the local authority as reserved for children with special educational needs;
- (b) A change in the type, or types of special educational provision that is recognised by the local authority as reserved for children with special educational needs; or
- (c) The discontinuance of provision which is recognised by the local authority as reserved for children with special educational needs

Regulation 5 and 6 and Schedule 2 para 8 and Schedule 3 School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013/3110

The details of the proposals must be placed on a website and in a local paper and to various other stakeholders.

The proposals are in line with these statutory requirements.

FINANCIAL IMPLICATIONS AND RISKS

The financial implications of undertaking the statutory process are minimal and costs can be contained within existing budgets of the Education Service. However, there is a significant financial implication of implementing the proposal and this is detailed below.

Capital Implications

The estimated costs for delivering St Edward's Church of England Voluntary Aided Primary School ARP is as follows:

School	Designated SEND unit	Cost
St Edward's Church of England Voluntary Aided Primary School	New designated SEND unit for Communication and Interaction Needs – LA to deliver building works	£1,300,000

It is envisaged that this scheme will be funded the recently announced 2021/22 SEND Capital Allocation 2021/22 of £2,206,149. As this grant has only recently been announced it has not yet been included within the Council's capital programme. This process will be undertaken during the consultation process and the financial implicated will be reassessed should be decision be made to proceed with the

Non-key Executive Decision

proposals following the publication of the statutory notices. They will also be reassessed prior to the award of any contract.

Revenue Implications for schools

ARPs in Havering are funded in accordance within a Place Led Funding approach that complies with the Government's SEN Funding Reforms which came into effect in April 2018. Generally, the local authority will commission 12 places at £6k each per annum. The school retains its Age Weighted Pupil Unit funding for pupils on roll at the ARP as the autumn term census which is topped up to £4,000 by the local authority. For places that are not filled, £4,000 is allocated in addition to the £6,000 in cases where it is likely that the place will be filled during the year.

An additional £6,667 per place is allocated by the local authority to provide predictability and stability for the school in meeting the costs of the ARP. This replaces any "top up" funding based on the EHC plans of the individual pupils attending the ARP. All costs are met by the LA's allocation of High Needs funding from the Dedicated Schools Grant.

There is no implication to the General Fund budget of the London Borough of Havering should the scheme be approved. However, there may be a risk that costs exceed the original proposals, at which point management action will be taken, following the review of available options, which will include options to reduce costs (as appropriate) or seek additional funding, ideally from funds set aside for the Special Education Needs Schools programme.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The human resources implications for the school to be proposed for creating designated SEND unit will be managed by the school itself, supported when required by HES HR. There is likely to be a need to recruit additional teaching and support staff and the relevant school will undertake the recruitment and selection process in accordance with the appropriate policies and procedures.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

In Havering we are committed to developing the most inclusive communities which are welcoming and supportive of all. Our aspiration for all our children and young people are the same and this is that they should all have the best opportunities to achieve and fulfil their potential. Our aim for children and young people with special educational needs (SEN) is even more ambitious in that we want them to enjoy their education in the most inclusive environment possible and be supported in participating as fully as they can in the lives of their schools and local community.

The local specialist provisions will ensure that all children can have their needs met in a school as close to home possible. This is to ensure that they are in the right school at the right time so that they may participate fully in the lives of their schools and make the most of their learning opportunities, supporting schools and families to help children

Non-key Executive Decision

and young people remain and develop into participative members of their local schools and community.

BACKGROUND PAPERS

None

Appendix 1 – Statutory Notice

Appendix 2 – Consultation report

Non-key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed 

Name: Trevor Cook

~~Cabinet Portfolio held:~~

~~CMT Member title:~~

Head of Service title AD Education Services

~~Other manager title:~~

Date: 03/09/21

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____

Non-key Executive Decision

--