

	<b>Officer Key Decision</b>
	<b>Report to Strategic Director Children and Young People</b>
<b>AUTHORITY TO IMPLEMENT THE SEN/INCLUSION SUPPORT FUND PROGRAMME</b>	

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key Decision
<b>Open or Part/Fully Exempt:</b> (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	<p>Sharon Buckby Head of Inclusion Service and Virtual School Headteacher <a href="mailto:sharon.buckby@brent.gov.uk">sharon.buckby@brent.gov.uk</a></p> <p>Nigel Chapman Operational Director, Integration &amp; Improved Outcomes, Children and Young People: <a href="mailto:nigel.chapman@brent.gov.uk">nigel.chapman@brent.gov.uk</a></p>

## 1.0 Purpose of the Report

- 1.1 This paper proposes to introduce a SEN/Inclusion Support Fund Programme for schools, with funding via the High Needs Block (HNB) allocation. The proposal is consistent with priorities 1 and 2 within the 2018-21 SEND Strategy and other actions being undertaken to manage pressure on the High Needs Block of the Dedicated Schools Grant (DSG). One of the intended outcomes of introducing the programme is to manage demand for Education, Health and Care Plans (EHCPs) by enabling children's needs to be met at an earlier stage at SEN support.

## 2.0 Recommendation(s)

- 2.1 That the Strategic Director for Children and Young People approves the SEN/Inclusion Support Fund Programme as detailed in paragraphs 3.5-3.10.

### **3.0 Detail**

- 3.1 The Brent SEND Strategy 2018-21 identified five priorities for the local partnership. Two of these described activities that would support children to access support at an earlier stage. This activity is referred to nationally as the 'graduated approach' to work with children who have special educational needs. Priority 1 identified the need to develop a highly skilled workforce of professionals from all services and agencies who are knowledgeable and confident across a wide range of SEND issues. This included multi-agency training and workforce development programmes for staff in schools, settings and services, through both specialist training from outreach services and special schools as well as school-to-school support. Priority 2 identified the need to implement an Inclusion Support Fund and a SEND specialist provision fund to invest in staff development in schools. This SEN/Inclusion Support Fund Programme directly responds to both priorities.
- 3.2 In a July 2021 report Ofsted and the CQC focused on the importance of implementing a graduated approach as critical for an effective SEND system. This was particularly in relation to local area partners setting the conditions for effective practice to flourish, with a clear graduated approach in place that results in children's needs being identified at the right time and assessed in a timely and effective way, thereby achieving the best possible outcomes.
- 3.3 There is widespread acknowledgement within the sector that whilst the 2015 Code of Practice appropriately shifted the emphasis to providing more effective system wide support for young people with SEND, the resource required to enable full ambitions to be realised has not been forthcoming. Nationally the funding pressures that have arisen have led to a £1.6 billion deficit. In Brent, this was £10.5 million recurring as of the end of the 2020/21 financial year, directly as a result of increased EHCPs and commissioned provision to support young people to access the curriculum. To avoid continued growth in numbers of EHCPs and to manage demand effectively an alternative funding stream needs to be generated from the HNB to support the graduated approach. This aligns with current management activity to reduce pressure on the HNB. With a focus on supporting children earlier, this approach should reduce the numbers of EHC assessments requested, plans approved and should provide clarity regarding time limited EHC plans where specific specialist intervention is required for a defined period of time. This approach has been identified as good practice in the DfE guidance paper - Sustainable high needs systems: learning from the 'safety valve' intervention programme, July 2021.
- 3.4 The implementation of the graduated approach at a local level has been co-produced with Brent Council officers, Brent settings and schools, the Brent Parent Carer Forum (BPCF) and health providers. It provides clear expectations of how SEN is supported through multiagency services at universal levels and through Quality First Teaching; targeted SEN support and specialist support. Moderation of the application of the graduated approach in settings and schools will be via existing SENCO groups and the application of the Whole School

SEND Review process<sup>1</sup> (a nationally recognised self-assessment tool for schools to evaluate the impact of inclusion activities).

- 3.5 The proposed SEN/Inclusion Support Fund will support the development of teaching and learning methodologies across schools that will benefit not only those young people on SEN support but a whole school approach to inclusion. This approach supports children and young people to stay in mainstream provision by enabling schools to meet identified needs.
- 3.6 Consultation has been undertaken with the Brent Parent Carer Forum via 'Big Conversations', with representatives attending the working party. The Inclusion Service will continue this approach through the implementation phase to manage parent and carer expectations as the new system embeds and to ensure transparency. This will be supplemented by online surgeries to support parents and carers as well as monthly drop ins at Family Wellbeing Centres. CYP officers will support SENCOs to undertake a school audit on skills and establish a training and development programme that enhances the offer at school level for individual children. Training programmes are also being implemented for GPs and paediatricians to support their understanding of preventative and early intervention programmes.
- 3.7 The proposed programme will be resourced through £0.5m from growth funds allocated to the HNB for the academic year 2021/22 and will be based around five geographical areas of the borough. Each area will undertake a needs analysis of pupils and of the workforce to meet those needs. This will be supported by officers within the Inclusion Service, providing each area with a plan for training and development or the implementation of specific methodologies. Through a conditional grant arrangement, a lead school (identified by headteachers) will be nominated to hold the area allocation (based on £6650 per school to meet identified development needs).
- 3.8 This approach supports:
- a collegiate approach to be developed between schools supporting children with SEND and providing school to school assurance on standards;
  - an equal allocation of the grant across schools;
  - moderation across areas on meeting SEN needs through the graduated approach;
  - a greater number of inclusive schools;
  - better identification of the needs of the pupil population to assist in commissioning;
  - a smooth transition from early years to primary and to secondary; and
  - good practice that can be shared across all areas, with clear workforce development programmes and teaching methodologies to address pupils' additional needs where possible economies of scale will be realised.

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[https://nasen.org.uk/?gclid=EAlalQobChMIn6XsgNuH8AIVSuvTCh0pAwQdEAAYASAAEg\\_1fD\\_BwE](https://nasen.org.uk/?gclid=EAlalQobChMIn6XsgNuH8AIVSuvTCh0pAwQdEAAYASAAEg_1fD_BwE)

The investment from the HNB will have significant impact on a number of children and young people across all schools and as such will provide a more significant sustainable impact on the DSG. The impact is also likely to see a reduction in the demand for EHCPs.

- 3.9 The HNB sub group of Schools Forum will oversee monitoring of the programme, alongside CYP officers. A mid-year review will identify areas of progress and resource allocation. If sufficient progress is not being made CYP officers will work with school leaders to explore alternative options.
- 3.10 Should the benefits of this approach be realised in reducing EHCP demand the intention would be to utilise any savings or cost avoidance to both contribute to the reduction in the HNB deficit and expand the SEN/Inclusion Support Fund financial envelope for the following academic year.

#### **4.0 Financial Implications**

- 4.1 The proposed financial envelope for this pilot is £0.5m which has been identified from the 10% growth allocated to the High Needs Block (HNB) of the DSG in 2021/22. If the SEN support pilot proves successful, the cost avoidance identified will contribute towards the HNB deficit recovery plan and will potentially increase the financial envelope of the SEN Support Allocation.

#### **5.0 Legal Implications**

- 5.1 The Department for Education (DfE) leads the SEND system for England and defines the legislative, policy and funding arrangements. The DfE's vision is of "children and young people with SEND achieving well in their early years, at school and in college; finding employment; leading happy and fulfilled lives; and having choice and control over their support." (DfE 2015b). The current arrangements for the education and care of children and young people with SEND are largely governed by the Children and Families Act (2014). Part 3 of this requires local authorities, schools and academies, early years providers and NHS bodies to pay regard to the regulations and to the statutory Code of Practice for SEND (DfE 2015a). Duties in the Children and Families Act (2014) include:

- To work across the local authority and health to jointly commission services that deliver integrated support for children and young people with SEND aged 0-25, including arrangements that support personalisation and personal budgets.
- For the local authority to work with local partners, parents and young people to co-produce and publish a Local Offer of SEND services and to assist young people in finding employment, obtaining accommodation and participating in society.

- For the local authority to provide co-ordinated education, health and care needs assessments for children and young people aged 0 - 25 and issue education, health and care (EHC) plans.
- For NHS clinical commissioning groups (CCGs) to put in place mechanisms to ensure practitioners and clinicians can support the integrated EHC needs assessment process.
- The Care Act (2014) sets out duties local authorities and CCGs must fulfil for children and young people with disabilities and their families, including direct payments and supporting transitions to adult care services. The Government holds the local SEND system to account through Ofsted and the Care Quality Commission (CQC) who have been tasked to carry out evaluations of local areas in England and their support for children and young people with SEND. Inspection teams assess the effectiveness of the local organisations in identifying and meeting the needs of all children and young people with SEND from ages 0 to 25 (Ofsted 2016).

5.2 The Department for Education's position is that the commissioning by local authorities of special educational needs and alternative provision placements, funded from the high needs block of the DSG, is not regarded as a public service contract for the purposes of the Public Contracts Regulations 2015. <https://www.gov.uk/government/publications/high-needs-funding-arrangements-2020-to-2021>

5.3 The Public Contracts Regulations 2015 are not intended to cover all expenditure of public funding, reflecting the intention of the EU Directive on public procurement. The public procurement rules only apply to contracts for the provision of public works, services or goods made for "pecuniary interest" between an "economic operator" and a contracting authority. Other forms of public funding, such as funding provided through grants, usually fall out of scope. Case-law from the European Court of Justice has established that public education organised within a national education system does not constitute economic activity, even in cases where tuition fees may be required to support placements.

5.4 The general power of competence in Section 1 of the Localism Act 2011 may be utilised to give grants to external bodies including schools where there is good reason to do so.

5.5 In accordance with Section 9(b) of the table at paragraph 9.5 of Part 3 of the Council's Constitution, Chief Officers have delegated authority to make grants provided that where the grant involves the distributions of funds received from a third party, the grant complies with the conditions under which the funds have been received by the Council.

5.6 Officers have recommended the award of conditional grants to schools. Schools would be required to provide specified proposals to support students. Should a school or schools fail to observe these requirements, the Council would be able

to terminate the grant agreement and seek repayment of any sums not distributed.

- 5.7 In accordance with Standing Order 71(d), agreements should be in writing and signed in accordance with the Financial Regulations and therefore, a conditional grant agreement will be entered into and signed by both parties. The Strategic Director, Children and Young People has delegated authority to award and enter into the proposed grant agreements.

## **6.0 Equality Implications**

- 6.1 Under Section 149 of the Equality Act 2010, the Council has a duty when exercising its public functions to have 'due regard' to the need to eliminate discrimination harassment and victimisation and other conduct prohibited under the Act; advance equality of opportunity, and foster good relations between those who share a "protected characteristic" and those who do not. This duty is known as the public sector equality duty (PSED).
- 6.2 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 6.3 In the provision of these range of services and in commissioning secure additional places for primary pupils with SEND the Council is working toward meeting its responsibilities under the Equality Act.
- 6.4 As detailed above the Council has a range of responsibilities it must meet under part 3 of the Children and Families Act 2014 in relation to SEND and this report is identifying some of the mechanisms that the Council has put in place to meet some of those needs under the 2014 Act and associated guidance.

## **7.0 Consultation with Ward Members and Stakeholders**

- 7.1 The Lead Member for Children's Safeguarding, Early Help and Social Care and Cabinet Member for Education, Employment and Skills have been consulted and will be continually briefed on the progress made. Schools Forum has been consulted and endorsed the approach.

## **8.0 Human Resources Implications**

- 8.1 The service is provided by external providers and therefore there are no implications for Council staff arising from extending and varying the contract.

Report sign off:-

Nigel Chapman

Operational Director, Integration & Improved Outcomes, Children  
and Young People