



# Doncaster Council

## Report

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**Date: 17 July 2018**

**To the Chair and Members of the CABINET**

### **SPECIAL PROVISION FOR CHILDREN AND YOUNG PEOPLE WITH SPECIAL EDUCATIONAL NEEDS AND DISABILITY CAPITAL FUND 2018 - 2021**

| <b>Relevant Cabinet Member(s)</b>  | <b>Wards Affected</b> | <b>Key Decision</b> |
|--|-----------------------|---------------------|
| Councillor Nuala Fennelly,<br>Cabinet Member for Children, Young<br>People and Schools | All                   | Yes                 |

### **EXECUTIVE SUMMARY**

1. The Education Inclusion programme seeks to improve educational outcomes for all children in Doncaster, with a particular focus on vulnerable and/or disadvantaged children. This work includes as one of its strands the Special Educational Needs and Disabilities Review.
2. The SEND Review outlined in the One Doncaster Report and located under the governance of the Inclusion Programme Board includes targeted activity on a range of themes including: the sufficiency of places; review of out of authority placements; integrated assessment, planning and review pathways and processes; education transport; preparing for adulthood; transition; and improving outcomes at SEN Support.
3. Doncaster Council's Organisation of Learning Provision Strategy informs and complements the SEND Review, setting out the key components and approaches contributing to the whole Learning Landscape for all children and young people in the Borough. The strategy captures the main opportunities and challenges across the multi-provider infrastructure of learning provision in Doncaster, providing a framework for planning and generating the necessary resources to ensure that we meet the requirement to commission high quality learning settings. The process of ensuring there are sufficient places to meet the needs of learners with SEND is embedded within the strategy.
4. The special provision fund was first announced by the Department for Education on 4 March 2017 to support local authorities in making capital investments in provision for pupils with special educational needs and disabilities. This supports the outcomes of the review in terms of capital investment alongside the new Communication and Interaction School reported to Cabinet in May 2018 and any further bids for a new special school under the next Wave (13) due to be announced by the DfE later this year. This allows the Council to invest in new places and improvements to facilities

for pupils with education, health and care (EHC) plans in mainstream and special schools, nurseries, colleges and other provision.

5. A review of sufficiency of special educational needs and placements has been completed with an indicative plan was submitted to the Department for Education in March 2018. Initial indications were that a minimum of £500k of capital funding would be made available to be distributed over 3 years from 2018/19. The Council was successful in this application and consultation has been undertaken with schools, parents and other partners to establish funding priorities.

## **EXEMPT REPORT**

6. This report is not exempt.

## **RECOMMENDATIONS**

The Chair and Members of the Cabinet are asked to:

- a. Note the contents of the report and accept the allocation of £616,279 capital funding from the Department for Education to be spent in line with Doncaster SEND Strategic Intent 2018 – 22 (Updated Special Provision Fund Plan).
- b. Delegate authority to the Director of People, in consultation with the Chief Financial Officer and the Portfolio Holder for Children, Young People and Schools to determine project allocations following appropriate statutory and non-statutory consultation with relevant partners.
- c. Note the requirement for the Council's Section 151 Officer to verify that the funding has been spent on Capital Projects by completing appropriate returns to the Department for Education.

## **WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?**

7. Local Councils play a key role in placing children and young people with special educational needs and Education, Health and Care (EHC) plans and it is important that they are involved in shaping the range of provision in their area. A number of children and young people currently placed in a range of settings in Doncaster, educated other than at school or placed outside of the area would benefit from suitable provision being made available locally, within Doncaster.
8. Local authorities have a statutory duty to ensure that there is a school place available for every child. The Children and Families Act 2014 requires local authorities to keep the provision for children and young people with SEN and disabilities under review (including its sufficiency), working with parents, young people, and providers.
9. In this context local authorities consider how best to use their capital allocation from the special provision fund to support meeting local need.

## BACKGROUND

10. The number of children and young people with a statutory Plan has increased by a third from 1236 Statements of SEN in 2014 to 1650 EHCPs maintained by the Council as at January 2018. This is largely due to the extended age range following the 2014 SEND Reforms.
11. The data analysis and national benchmarking confirms that this trend is set to continue to increase with the number of children and young people in secondary and post 16 seeing the greatest increase. The most significant areas of need to be met are autism; social, emotional and mental health; and moderate learning difficulties.
12. Doncaster's 2018 national data submission reported that 38% (624 children and young people) of Doncaster children and young people with statements of SEN/EHC plans were attending any type of special school, which is around the national average. The number of placements in special schools has increased over recent years and is at its highest in January 2018. The majority of these special school placements are in LA maintained or academy special schools (89%). Doncaster funds approximately 550 places across its 5 state-funded special schools. Doncaster maintains two specialist resources for children with a hearing impairment in a mainstream primary and secondary school. As at January 2018, 1 % (17 pupils) of children/young people with an EHC Plan attended this type of provision which is less than half the national average (3.3%).
13. There are similar proportions of children and young people attending non-maintained special schools and independent special schools in Doncaster (4.2%, 70 children and young people) than national average (4.9%). There was an increase in the number of placements in independent special schools since 2014 but the proportion attending such provision has decreased reflecting the increased number of children and young people with an EHC plans.
14. Following the SEN reforms in 2014, there has been a significant growth in the number of young people with an EHC Plan attending a post 16 provision (364 young people in Doncaster - 23% of the total cohort 0-25, compared 15% nationally). 17% (285 young people) of young people with an EHC plan attend a general further education college; higher than the national average of 12%. There is a higher percentage of young people attending specialist post 16 institutions in Doncaster (4.4%, 72 young people) than nationally (1.3%).
15. The special provision fund was first announced on 4 March 2017 by the Department for Education to support local authorities to make capital investments in provision for pupils with special educational needs and disabilities. Local authorities can invest in new places and improvements to facilities for pupils with education, health and care (EHC) plans in mainstream and special schools, nurseries, colleges and other provision.
16. As a result, a SEND Review outlined in the One Doncaster Report and located under the governance of the Inclusion Programme Board has been carried out. The SEND Review includes targeted activity on a range of themes including: the review of sufficiency of placements; review of out of authority placements; integrated assessment, planning and review pathways and processes; education transport; preparing for adulthood; transition; and improving outcomes at SEN Support.
17. The review of sufficiency of special educational placements was completed with an indicative plan (Doncaster SEND Strategic Intent 2018 to 2022, Updated Special

Provision Fund Plan) was submitted to the Department for Education in March 2018 and added to our Local Offer. Initial indications were that a minimum of £500k of capital funding would be made available. The Council was successful in this application and consultation has been undertaken with schools, parents and other partners to establish funding priorities.

18. Subsequently on 29 May 2018 the Department for Education confirmed the allocations and next steps to secure the funding which was increased to £616,279 subject to:
  - the Council's Section 151 Officer verifying that the funding has been spent on Capital Projects by completing appropriate returns to the Department for Education, and,
  - the updating of our Special Provision Fund Plan by 29 March 2019 and again in March 2020 and 2021.

## **OPTIONS CONSIDERED**

19. Currently a number of SEND children and young people are educated; in a range of settings across the Borough; placements outside of the Borough; are educated other than at school or are attending mainstream schools in the Borough but would benefit from specialist provision within the area. Whilst this may continue there are a number of benefits to expanding provision within the area outlined within the report.
20. Prior to the Council publishing the Council's Doncaster SEND Strategic Intent 2018 to 2022, Updated Special Provision Fund Plan on 14th March 2018 a number of options were considered that would either enhance, expand or create additional capacity for SEND children. Full details of those projects which include the new Communication and Interaction School and investment in Big Picture Learning are contained in the Special Provision Fund Plan noted above. The projects which were determined to be appropriate for full costing and consultation for the capital grant funding are included in Appendix 1.

## **REASONS FOR RECOMMENDED OPTION**

21. The key principles for the development of SEN Learning Provision in Doncaster are set out in our Organisation of Learning Provision Strategy and are based on the early outcomes of the SEN Review. These principles are focused on:
  - Supporting the capacity of mainstream schools to enable them to be more inclusive;
  - Enabling Quality First teaching in every setting;
  - Ensuring sufficient quality alternative provision in settings that enable us to meet the needs of individual pupils leading to improved outcomes;
  - A transparent, accountable, and principled system that enables targeted work and sustainable challenge.
22. The Council has been given an opportunity to provide high quality, appropriate provision to meet the needs of a group of SEN children and young people within the Borough and to receive capital and capital grant funding from the DfE. The projects once approved will allow for the capital investment to deliver the required outcomes set out above in the most efficient manner.

## IMPACT ON THE COUNCIL'S KEY OUTCOMES

|  | Outcomes   | Implications  |
|--|--|---|
|  | <p><b>Doncaster Working:</b> Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> <li>• Better access to good fulfilling work</li> <li>• Doncaster businesses are supported to flourish</li> <li>• Inward Investment</li> </ul>  | <p>The proposals will release a significant capital investment with the majority of the work managed and undertaken by the Council's Professional Buildings Maintenance Department.</p>   |
|  | <p><b>Doncaster Learning:</b> Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> <li>• Every child has life-changing learning experiences within and beyond school</li> <li>• Many more great teachers work in Doncaster Schools that are good or better</li> <li>• Learning in Doncaster prepares young people for the world of work</li> </ul>   | <p>The cohort of children and young people will benefit greatly from specialist provision in an appropriate setting within Doncaster.</p> <p>A number of children and young people will benefit from attending a local education provision with specialist resources.</p> |
|  | <p><b>Doncaster Caring:</b> Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> <li>• Children have the best start in life</li> <li>• Vulnerable families and individuals have support from someone they trust</li> <li>• Older people can live well and independently in their own homes</li> </ul>   |   |
|  | <p><b>Connected Council:</b></p> <ul style="list-style-type: none"> <li>• A modern, efficient and flexible workforce</li> <li>• Modern, accessible customer interactions</li> <li>• Operating within our resources and delivering value for money</li> <li>• A co-ordinated, whole person, whole life focus on the needs and aspirations of residents</li> <li>• Building community resilience and self-reliance by connecting community assets and strengths</li> <li>• Working with our partners and residents to provide effective leadership and governance</li> </ul> | <p>Children and Young people of Doncaster will be provided with high quality, appropriate provision to meet their needs and enable them to flourish.</p>  |

## **RISKS AND ASSUMPTIONS**

23. Reputational Risk: There is a risk to the council that not achieving the recommendations of the Strategic Intent (Special Fund Provision) Plan published in March 2018 will have a detrimental impact on outcomes for children and young people and not pursuing this opportunity and withdrawing from the process would result in a lack of appropriate provision within the Borough. Children and young people would remain within less appropriate provision increasing the risk of social isolation and loneliness and not enabling them to reach their full potential.
24. Financial Risk: There would be a risk of increasing pressure on the High Needs Block for any pupil placed in out of authority placements due to their higher costs and increase in transport costs.
25. It is critical for the benefit of the children and young people of Doncaster that they be provided with appropriate support within the correct setting to meet their needs. Therefore the impact of the implementation of the recommendations is critical. The Council has a history of delivering capital projects to time and within budget, significantly reducing the risk of delivery. The current risk rating is 20 = Likelihood 4 (likely) x Impact 5 (critical). However with secure project management in place and ongoing initial estimates already provided, the current risk rating is 10 = Likelihood 2 (unlikely) x Impact 5 (critical).

## **LEGAL IMPLICATIONS**

26. Part 3 of the Children and Families Act 2014 places legal duties on Local Authorities to identify and assess the special educational needs of children and young people for whom they are responsible. They must then ensure that those children and young people receive a level of support which will help them “achieve the best possible educational and other outcomes” (Section 19 (d)).
27. Section 1 of the Localism Act 2011 provides the Council with a general power of competence, allowing the Council to do anything that individuals generally may do.
28. The report author must ensure that the terms and conditions attached the £616, 279 capital grant fund from the Department of Education are complied with. This will include the Council's Section 151 officer confirming to the Department of Education that the funding has been spent on capital projects and updating the Councils Special Provision Fund Plan by 29 March 2019 and again in March 2020 and 2021.
29. Director of People must ensure that E15 and E17 of the Councils finance procedure rules are complied with to ensure that the Council's interests are protected at all times and the Councils doesn't become subjected to clawback.
30. The allocation of funds for capital works will be subject to the Councils contract procedure rules.
31. The proposals may involve changes to some schools. The statutory guidance 'Making prescribed alterations to maintained schools' must be followed and the necessary consultation completed before a decision is made and implemented.
32. The decision maker must be aware of their obligations under section 149 Equality Act 2010, the Public Sector Equality Duty (PSED). It obliges public authorities, when exercising their functions, to have 'due regard' to the need to: eliminate discrimination, harassment and victimization and other conduct which the act

prohibits; advance equality of opportunity; and foster good relations between people who share relevant protected characteristics and those who do not. The relevant protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships, but only in respect of eliminating unlawful discrimination. The decision maker must ensure that they have seen the due regard statement. The duty must be exercised in substance, with rigour, and with an open mind and is not a question of ticking boxes. It is for the decision-maker to decide how much weight should be given to the various factors informing the decision, including how much weight should be given to the PSED itself. The duty is a continuing one and there should be a record/audit trail of how due regard has been shown. It is not sufficient for due regard to be a “rear-guard action” following a concluded decision. The decision maker must also pay regard to any countervailing factors and decide the weight to be given to these, which it is proper and reasonable to consider; budgetary pressures, economics and practical factors will often be important.

33. Further specific legal advice will be given throughout the life of the project.

**[Officer Initials – NJD Date 08/06/18]**

## **FINANCIAL IMPLICATIONS**

### **Capital**

34. The Department for Education (DfE) has allocated Doncaster MBC £616k to invest in improving the quality and range of provision for children and young people with SEN and disabilities aged 0-25. This allocation is expected to be paid as follows.

|         |       |
|---------|-------|
| 2018-19 | £205k |
| 2019-20 | £205k |
| 2020-21 | £206k |

35. The proposals numbered 1-3, as set out in Appendix 1, are expected to cost the following:

|  |              |
|--|--------------|
| 1. Maple Medical PRU (Mulberry)/Levett Pupil Referral Unit | £200k        |
| 2. Seedlings (to be based at Maple Medical PRU)            | £200k        |
| 3. Heatherwood Special School                              | <u>£150k</u> |
| <b>TOTAL</b>   | <b>£550k</b> |

36. The total estimated cost of £550k above can be fully funded from the DfE grant of £616k and as such sufficient budget exists to cover the costs of these 3 proposals with the remaining £66k retained for a contingency. Whilst the grant is to be paid over 3 years it is un ring-fenced and therefore Doncaster Council is able to spend this allocation early using other confirmed DfE capital grants. The SEN grant above would then replace the DfE Grant as it is received.

**[Officer Initials SB 20/6/18]**

### **Revenue**

37. All changes to high needs education provision and funded place numbers in settings, outlined within Appendix 1 of this report arising from these capital projects, will be funded from the High Needs Block of the Dedicated Schools Grant (DSG)

which is a ring fenced grant, provided by the DfE for these purposes. It is the LA's responsibility to manage the High Needs Block of DSG within budget, with accountability to School Forum on how it manages and makes arrangement for provision.

38. The impact of the additional places will need to be modelled and factored into the budget over the medium term to ensure the LA can continue to maintain a balanced position on the High Needs Block DSG overall. In general the impact of providing these places is as follows (which in total will be determined by the final numbers of pupils, when the projects are completed and where the pupils would alternatively have been placed):
- Proposal 1 - The costs of these placements would be either £15k for Levett or £18k for Mulberry/Maple however this is expected to be as an alternative to either providing funding of £8k in mainstream provision or roughly between £35k-£50k in alternative available out of authority provision.
  - Proposal 2 – Whilst Seedlings provision receives Early Years funding based on the number of children in the setting there may be additional high needs top-up funding required for staffing of the unit which will need to be quantified.
  - Proposal 3 - The cost of each placement is yet to be determined however is expected would be up to £20k per annum for post 16, however this is either as an alternative to providing additional funding of £8k in mainstream provision or between £16k-£50k in alternative available specialist provision.

**[Officer Initials DB 8/6/18]**

## **HUMAN RESOURCES IMPLICATIONS**

39. There are no specific HR implications related to the content of this report for the council. There may be HR implications for the organisations depending on how they are using the money to achieve the Strategic Intent (Special Fund Provision) Plan but this will be for them to consider. If there are HR implications for the council arising from specific elements of the Plan these will be addressed at the appropriate time through the relevant governance arrangements.

**[Officer Initials AG Date 07/06/18]**

## **TECHNOLOGY IMPLICATIONS**

40. There are no specific technology implications at this stage. However, as the proposals progress, Learning & Opportunities: CYP should engage with ICT to ensure any arising technology implications are fully considered.

**[Officer Initials PW Date 07/06/18]**

## **HEALTH IMPLICATIONS**

41. Special educational needs and disabilities (SEND) can affect a child or young person's ability to learn, which will have an impact on the child or young person's health and wellbeing. This additional provision will help meet what are currently unmet needs for this population and should improve learning and subsequently improve health and wellbeing, as well as reducing health inequalities.
42. Children and young people will have had a statutory education health care needs assessment and will be in receipt of have an Education Health and Care Plan issued



by the Council. This statutory process will ensure that children and young people are provided with the most appropriate provision to meet their needs.

**[Officer Initials RS Date 08/06/18]**

## **EQUALITY IMPLICATIONS**

43. The provision of capital funding to extend provision for pupils with Special Educational Needs and Disabilities will support their development across a range of settings from 0 to 25 and enable them to receive suitable education within the local area. This will increase and strengthen our Local Offer and support our obligations under the Equality Act 2010.
44. The Council's duty under section 149 of the Equality Act 2010 when exercising its functions to advance equality of opportunity and foster good relations between those who have a protected characteristic and those who do not share that protected characteristic, ensure fair access to learning and opportunities for all Doncaster children and young people.

**[Officer Initials NMc Date 05/06/18]**

## **CONSULTATION**

45. Discussions have been held with colleagues within Finance, Property and Construction Services, Regeneration and Environment and Asset Board regarding the provision of a site for the school. proposed expansion and refurbishment projects set out in the Statement of Intent
46. A number of consultation events have been held with schools, parents and other partner agencies and it is intended that Officers will continue to consult and coproduce with parents, children and young people and other stakeholders throughout the delivery of the projects.
47. Should any of the proposals require a statutory consultation process including proposals to: extend an age range of a school; change designation; or increase the size of a school, the following arrangements will be required:-
  - Informal consultation with stakeholders – public consultation meetings with appropriate notice to partners (2 weeks);
  - Publication of statutory proposal and notice (minimum 4 school weeks);
  - Final decision to take place post the statutory notice period to proceed (subject to approval of delegated authority);
  - Inform relevant parties of the decision (within 1 week of the decision being taken);
  - Right of appeal to the adjudicator in this case by either the Church of England or Roman Catholic diocesan authorities (within 4 weeks of the decision).

## **BACKGROUND PAPERS**

Doncaster SEND Strategic Intent 2018 to 2022, Updated Special Provision Fund Plan  
14th March 2018

<http://www.doncaster.gov.uk/services/schools/review-of-send-provision-for-doncaster>

Department for Education - Special Provision Capital Fund Guidance - May 2018

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/710997/Special\\_provision\\_capital\\_fund\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/710997/Special_provision_capital_fund_guidance.pdf)

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