

TO: SCHOOL FORUM
15 SEPTEMBER 2011

**NEW STATUTORY REQUIREMENTS RELATED TO ALTERNATIVE
EDUCATIONAL PROVISION**

Director of Children, Young People and Learning

1 PURPOSE OF DECISION

For the Schools Forum to note the revised statutory requirements and cost implications for the education of children and young people out of school although not excluded but known to Bracknell Forest Council.

2 RECOMMENDATIONS

2.1 To NOTE the change to the statutory requirements related to the education of children out of school (paragraph 5.2);

2.2 To NOTE the forecast overspend in the current year of £0.034m and the potential full year budget pressure of £0.059m (paragraph 6.4).

3 REASONS FOR RECOMMENDATION

Members of the Schools Forum should be aware of the implications of recent changes to legislation related to the education of children not attending a school and whose parents have not elected to educate their child at home. Additional resources are expected to be required to meet a revised statutory requirement.

4 ALTERNATIVE OPTIONS CONSIDERED

None.

5 SUPPORTING INFORMATION

Background

5.1 In the 2010 schools White Paper, *The Importance of Teaching*, the Government set out its commitment to ensuring that all pupils in alternative education provision should receive suitable full time education. The commencement order was not published until June 2011.

5.2 The order extends the current arrangements in which only those pupils who are excluded from school are guaranteed full-time provision. This extension is due to come into force with effect from 1 September 2011. From this date, local authorities must ensure that all children who fall within the scope of Section 19 of the Education Act 1996 receive suitable full-time education unless reasons that relate to their medical condition mean that this would not be in their best interests.

5.3 Section 19 of the Education Act 1996 provides that:
Each local education authority shall make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for a period receive suitable education unless such arrangements are made for them

5.4 The extension applies to that group of pupils who may be out of school for medical reasons – relating to either physical or mental health issues. This group of pupils has

not usually received full-time provision to date. Pupils who are not excluded but transfer to the Pupil Referral Service by way of a 'managed move' usually receive a suitable, full-time education.

- 5.5 Exceptionally, there may be pupils who are not on the roll of a Bracknell Forest school and are unable to secure a school place. Given the admission arrangements operated by the different admissions authorities in the Borough this is a rare occurrence.
- 5.6 All other pupils that the Authority is responsible for are on the roll of either a maintained school or the Pupil Referral Service. Alternative provision is funded from the Schools Budget, is centrally managed by the local authority and provides for the following groups of children and young people:
- a. Pupils who are excluded for a fixed period of six days or more and remain on the roll of their mainstream/special school
 - b. Pupils who are permanently excluded and transfer to the roll of a new mainstream/special school or the roll of the Pupil Referral Service
 - c. Pupils who have not been permanently excluded but for whom a Managed Move to the PRS is deemed to be appropriate move onto the roll of College Hall
 - d. Pupils who are unable to attend school by reason of accident, illness or pregnancy remain on the roll of their mainstream school and may be dual registered with the PRS depending upon the anticipated period of provision.
 - e. Pupils who are described as 'school-phobic' who remain on the roll of their mainstream school but are dual registered at College Hall
 - f. Pupils who are at risk of permanent exclusion who may receive support from the PRS but remain on the roll of their school

This report focuses on groups d, e and f above. One further group of pupils who fall into category b are also considered.

The number of pupils, with their provision, in 2010/11 for the relevant groups are set out in Appendix 1.

Pupils with Medical Needs (includes accident, illness or pregnancy) – Group d pupils

- 5.7 The Local Authority maintains a policy *Access to Education for Children and Young People with Medical Needs*. This policy was based on the guidance that was issued in November 2001 by the Secretary of State with the same title. Local Authorities were expected to have regard to this statutory guidance. The Secretary of State has issued no further guidance.
- 5.8 The policy sets out the intention that children and young people with a diagnosed medical condition have proper access to as much high quality education as their condition permits.
- 5.9 The policy emphasises that the child or young person remains the responsibility of the school on whose roll they are registered. Later, the policy goes on to set out the partnership that exists between the school and the Pupil Referral Service where an extended or recurring period(s) of absence is/are anticipated.
- 5.10 The number of pupils who have fallen into this category during the last academic year (2010 – 11) was 14. The number of pupils in any one year is fairly constant at around 15 and has never exceeded 20 cases in any one year.
- 5.11 Schools have traditionally been supported with the provision of a Home Tuition Service for those pupils for whom attendance at school is not appropriate. In line with the guidance, support has tended to be made available after 15 days (unless the

condition is a recurring one). Separate arrangements are in place to meet the costs of educating pupils who may be hospitalised for long periods: these are rarely called upon.

- 5.12 Pupils are either taught in their own homes by peripatetic teachers or in premises arranged by the PRS e.g. at Coopers Hill (peripatetic teachers). Accipio, an IT based remote learning package, can be used to supplement provision in long term cases.
- 5.13 At the time of preparing the LA policy, the guidance from the Secretary of State stated that LAs should ensure a minimum entitlement of five hours teaching per week. The new statutory requirement increases this to full time provision i.e. 25 hours.
- 5.14 In practice, decisions have been taken about what would be in the child or young person's best interests from a medical point of view. Experience indicates that it would be very unusual for the PRS to provide 'taught time' to the levels indicated in the policy. Pupils are unlikely to be able to sustain these levels of face to face one-to-one tuition whilst medically unfit for school. Agreement is reached with the young person, parent and school about what is sustainable. The new DfE policy allows for discretion in this area.
- 5.15 In some cases, for example broken limbs, it would be better to provide the young person with specialist transport to school and to work with the home school to make 'reasonable adjustments' for teaching to take place there. In the past, there has sometimes been reluctance to enter into such arrangements, but four out of the six secondary schools have LSUs, the others have alternative facilities and primary schools can usually be supported to accommodate the pupil's needs.
- 5.16 The attitudes of schools towards young women who are pregnant have changed dramatically over recent years and it is rare for the PRS to be asked to provide a service as attendance at school normally continues.

Pupils described as 'School Phobic' – Group e pupils

- 5.17 The cases of children and young people who are described as 'school phobic' are more problematic. There are a number of such cases that emerge each year. During the last academic year there have been 11 cases. Seven will require provision from September 2011.
- 5.18 The situation is usually identified by a serious decline in school attendance which may lead to discussions regarding the use of penalties or prosecution by the Education Welfare Service. In these cases the Child and Adolescent Mental Health Service (CAMHS) is, or becomes involved and a return to school becomes more unlikely. Rather than providing Home Tuition, attempts are made to include these pupils in provision at The Cottage at College Hall where appropriate to meet their needs and where places are available. This gives the pupils access to a 'safe' environment, contact with other pupils and a broader experience. This 'group' provision is also more economical than 'one-to-one'. Some pupils in this category will be unable to access this group provision due to their medical needs and these pupils are offered one-to-one tuition
- 5.19 School Phobic pupils currently receive either just over 13 hours per week spread over 5 days if they are attending The Cottage group or between 5 and 12 hours if they receive one-to-one teaching. Not all of these pupils would be able to cope with full time education or attending College Hall, but some clearly could.
- 5.20 Currently these places are funded out of the home tuition budget with no charge to schools. Essentially the pupils are considered as having medical needs (mental health) and come under the remit of the policy outlined above.

Pupils at risk of permanent exclusion – Group f pupils

- 5.21 The responsibility for ensuring that these pupils receive a full time education rests with their school. The PRS provides programmes and other support in enabling schools to meet this duty.

Pupils who challenge the range of provision available – Group b pupils

- 5.22 From time to time the service encounters a young person for whom the range of provision available cannot meet their needs. These would be pupils who are unable to maintain a place at College Hall because of their impact on other pupils, cannot then sustain a place at another centre e.g. Coopers Hill, for 'home-tuition' and can therefore only be taught in their own homes. Sustaining full time education for these pupils with home tutors is extremely problematic because of their lack of cooperation and the intensity of the programme. It is the case that there have been a very small number of occasions on which the LA has not been able to meet its legal requirement of providing full time education for a permanently excluded pupil despite its best efforts.

Financial implications

- 5.23 Given the small number of pupils involved and the variability of their needs it is difficult to make predictions about the amount of additional resource needed to meet the new statutory requirement.
- 5.24 On the basis of 2010/11 numbers, if all pupils with medical needs (d) were provided with additional hours to increase their provision to 25 hours tuition, for the period they each had the tuition, a further 3,300 hours would need to have been provided, which would cost around £115,000. The reality is that this is extremely unlikely to be necessary. An increase in budget to enable a doubling of the existing 5 hours per week each of the 4 children currently receiving support at any one time would cost £28,000 plus the flexible use of Accipio costing £10,000 should be sufficient to meet the legal requirement. This totals £38,000 for a full year (£22,200 for 2011/12).
- 5.25 For 'school phobic' pupils (e) an additional 0.4 FTE teacher would be required to increase current provision to 25 hours for the existing Cottage group (5 pupils). The number of pupils who can attend this group is limited due to constraints on the accommodation. This would cost approximately £20,500 based on 0.4 of an average teacher salary (£12,000 for 2011/12). In the longer term modifications to accommodation may be possible to increase the size of the teaching space. In the short term, one-to-one tuition in alternative locations may need to be used supplemented by Accipio for students who fall into this category when the Cottage group is full. Again, not all of these pupils may be in a position to access full time education.
- 5.26 No financial implications are anticipated on the centrally managed Schools Budget from changes in support to pupils at risk of exclusion (f) or pupils permanently excluded (b).
- 5.27 Therefore the estimated additional budget requirement for the remainder of the 2011/12 financial year is £34,200 comprised of £22,200 for additional provision for pupils with medical needs and £12,000 for additional teaching for the Cottage group at College Hall with a full year permanent budget pressure from April 2012 of £59,000.

6 **ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

Borough Solicitor

- 6.1 The relevant legal provisions are contained within the main body of the report .

Borough Treasurer

- 6.2 The estimated financial implications arising from this report are set out in the supporting information. The ongoing pressure of £0.059m will need to be considered during the 2012-13 budget setting process.

Impact Assessment

- 6.3 There are no specific impact assessments arising from this report.

Strategic Risk Management Issues

- 6.4 Were suitable educational provision not be available then the Authority would not meet statutory requirements and this would therefore lead to a reputational risk for the Council.

Other Officers

- 6.5 There are no issues arising from this report that are relevant to other officers.

7 **CONSULTATION**

Principal Groups Consulted

- 7.1 Not applicable, applying agreed policy.

Method of Consultation

- 7.2 Not applicable.

Representations Received

- 7.3 Not applicable.

Background Papers

The Importance of Teaching – DFE 2010

Commencement Order (SI 2011, No 1100) - this brings a duty into force with effect from 1 September 2011. From this date, local authorities must ensure that all children who fall within the scope of section 19 of the 1996 Act receive suitable full-time education unless reasons that relate to their medical condition mean that this would not be in their best interests.

Access to Education for Children and Young People with Medical Needs - DFES 2001

Contact for further information

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Pupil Numbers: Academic Year 2010-11

Category	Number	Provision
Permanently Excluded pupils transferring to College Hall roll (b)	38	33 FT 5 not FT
Managed moves to College Hall roll (c)	12	9 FT 3 not FT
Medical, accident, pregnancy provided for by PRS (d)	14	0 FT 14 not FT
'School phobic' pupils provided for by PRS (e)	15	2 FT 13 not FT
Pupils 'at risk' of permanent exclusion (f)	3	1 FT 2 not FT
Other	3	1 FT 2 not FT
TOTAL	85	