

## Report to the Cabinet

Meeting to be held on Thursday, 1 October 2020

### Report of the Executive Director of Education and Children's Services

#### Part I

Electoral Divisions affected:  
(All Divisions)

### Developing the Approach and Provision for Children and Young People with Special Educational Needs and Disabilities

(Appendices 'A' to 'D' refer)

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#### Executive Summary

This report sets out the results of the initial work completed to progress specific projects that are part of the SEND Sufficiency Strategy approved by Cabinet on 16 January 2020.

These projects relate to the development of special educational needs units attached to mainstream schools, and the development of more special school places through the relocation and expansion of Broadfield Specialist School and the expansion of Sir Tom Finney Community High School.

These projects will enable the Council to fulfil its responsibilities for ensuring the sufficiency of provision for children and young people with special educational needs and disabilities over the next five years.

Other capital projects relating to The Haven site and Stepping Stones Short Stay School that were part of the SEND Sufficiency Strategy are not included within this report. These projects are being considered as part of the Alternative Provision Strategy report which can be found elsewhere on the Cabinet agenda.

In addition, a proposal to streamline the approach for seeking Cabinet approval for prescribed alterations for schools has been included in this report.

This is deemed to be a Key Decision and the provisions of Standing Order C19 have been complied with.

#### Recommendation

Cabinet is asked to:

- (i) Approve the SEND Sufficiency Strategy, further to consideration of the responses that have been provided during the period of consultation.

- |       |   |
|-------|---|
| (ii)  | Subject to (i) above consider the results of informal non-statutory consultations and feasibility design work for the six capital projects identified in (iii) and (iv) below.  |
| (iii) | Subject to (i) above approve the publication of statutory proposals for four special educational needs units to be attached to mainstream primary schools and the implementation of a four week representation (formal consultation) period for each of these projects.   |
| (iv)  | Subject to (i) above approve the publication of statutory proposals for the expansion and relocation of Broadfield Specialist School and the expansion of Sir Tom Finney Community High School, and the implementation of a four week representation (formal consultation) period for both of these proposals.  |
| (v)   | Subject to (i) above approve another round of expressions of interest from mainstream schools, to develop more on-site special educational needs units for children and young people with social, emotional and mental health needs or autism spectrum disorders.   |
| (vi)  | Approve the streamlined approach for seeking Cabinet approval for prescribed alterations to schools.  |
| (vii) | Subject to (vi) above, authorise the Executive Director for Education and Children's Services, in consultation with the Cabinet Member for Children, Young People and Schools, to approve an interim stage within the process of making a prescribed alteration to schools. Approval to initiate the process for making prescribed alterations and for making the final decision about whether the prescribed alteration is made would remain with Cabinet. |

## **Background and Advice**

This report updates on the actions that have been taken to support the implementation of the SEND Sufficiency Strategy that was presented to Cabinet in January 2020, and is set out at Appendix 'A', and seeks approval for statutory notices to be published for the capital expansion of Sir Tom Finney School, the relocation of Broadfield Specialist School and the creation of four special educational needs units attached to mainstream primary schools.

The SEND Sufficiency Strategy was developed in response to the increase in demand for specialist provision in particular localities and for particular needs within the context of increased and unsustainable pressure on the High Needs Block funding within the Dedicated Schools Grant. The strategy sets out how the council will meet current demand, in parallel to driving down future demand through change in practice, in order to enable more children and young people to remain in mainstream provision.

The SEND Sufficiency Strategy was subject to wider consultation between 6 July and 18 September 2020, in line with the requirements of the Special Educational Needs and Disability Code of Practice: 0 to 25 years statutory guidance. There were 232

responses to the online survey; 65% of whom were in agreement with the proposed strategy, 10% neither agreed nor disagreed with the strategy and the remaining 25% were not in agreement with the strategy. Overall respondents were of the view that more special school places were required and that special educational needs units attached to mainstream would offer advantages for many pupils. Those who disagreed with the proposed strategy expressed concerns about the availability of specialist knowledge and skills to support pupils within special education needs units. Others raised concerns about the shortfall in specialist provision for pupils with particular types of needs, such as autism, mental health needs and/or those considered to be academically able. Concerns were also raised about gaps in provision in different locations across the county. It should be noted the number of responses that made reference to any of these concerns were very limited in number.

Some respondents to the Send Sufficiency Strategy focused on wider issues such as the need to support mainstream schools to meet need more effectively. Some responses identified a requirement for the support from the local authority to be more needs led and less process driven. Both of these issues underpin the principles of the SEND Sufficiency Strategy and its wider ambition to promote an inclusive approach to education across the county. It is anticipated this will be achieved through the implementation of the SEND Sufficiency Strategy, through remodelling the Inclusion Service and balancing the need to provide support and challenge to mainstream education providers so that children and young people who will benefit from mainstream provision are supported to remain there. A summary of the feedback provided during this consultation is provided in Appendix 'B' and the equality analysis for the proposed SEND Sufficiency Strategy is attached as Appendix 'C'.

This report is divided into four sections, which are as follows:

- a) An updated overview of the demand for and availability of placements for children and young people with special educational needs in Lancashire.
- b) An update on the six capital projects currently underway as part of the implementation of the SEND Sufficiency Strategy. This includes: four special educational needs units to be attached to mainstream primary schools; the expansion and relocation of Broadfield Specialist School and the expansion of Sir Tom Finney Community High School.
- c) The outcomes of initial non-statutory consultations that have been undertaken for the six capital projects identified in b) above and a recommendation to approve the publication of statutory proposals and implement the statutory processes required for each of these prescribed alterations.
- d) A modified approach to seeking Cabinet approval for decisions relating to prescribed alterations to schools.

### **Special educational needs in Lancashire**

In January 2019, 3.1% of children and young people in Lancashire had education, health and care plans. This was consistent with the national figure. In January 2020, this figure rose to 3.4% in Lancashire, whereas nationally 3.3% pupils have education, health and care plans. The 0.1% difference equates to 214 children and young people in Lancashire.

A breakdown by primary special educational needs for all pupils with education, health and care plans is provided in the table below. The data included in this table relates to the January 2020 census that was published in July, and which permits comparison with the national data set.

| <b>Primary special educational need</b>   | <b>Percentage of education, health and care plan population</b> |                   |
|---|---|-------------------|
|   | <b>England</b>  | <b>Lancashire</b> |
| Autism spectrum disorder                  | 30.1  | 28.7              |
| Learning difficulties                     | 29.1  | 29.9              |
| Sensory and physical difficulties         | 8.6   | 10.9              |
| Social, emotional and mental health needs | 14.2  | 15.7              |
| Speech, language and communication needs  | 15.5  | 13.0              |
| Other                                     | 2.6   | 1.8               |

Learning difficulties in this table comprises, moderate, severe, profound and multiple and specific learning difficulties, none of which individually make up more than 12% of the education, health and care plan population, either nationally or in Lancashire. This means the most prevalent types of special educational need in Lancashire are autism spectrum disorder and social, emotional and mental health needs. This differs slightly from the national picture although there are fewer than 3 percentage points between each type of need comparatively between the national and local figures. These figures are broadly consistent with those of previous years.

Lancashire educates a greater proportion of children and young people with education, health and care plans in special schools in comparison with England. A summary of educational placement in Lancashire and in England is provided in the table below.

| <b>Type of education placement</b>                 | <b>Percentage of pupils with education, health and care plans attending</b> |                   |
|--|---|-------------------|
|  | <b>England</b>  | <b>Lancashire</b> |
| Mainstream   | 33.3%   | 29.8%             |
| Special educational needs unit/resourced provision | 4.6%  | 0.1%              |
| State funded special school                        | 32.1%   | 42.8%             |
| Independent and non-maintained special school      | 5.0%  | 6.7%              |

|                   |       |       |
|-------------------|-------|-------|
| Post 16 provision | 15.0% | 12.9% |
|-------------------|-------|-------|

The data presented above indicates that over 10% more pupils are educated in state funded special schools in Lancashire than in England overall. The percentage of pupils educated in mainstream schools and in special educational needs units or resourced provision is much lower in Lancashire than nationally. To match the national average, more than 300 additional places would be required in special educational needs units in Lancashire. The lack of provision in special educational needs units attached to mainstream schools is likely to account for some of the increased demand for special school places.

Further demand for special school places may result from the increased proportion of pupils with education, health and care plans reported above, if almost half of these additional pupils attend special school, reflecting the current pattern in Lancashire. The Sufficiency Strategy identified that the demand for more specialist provision is evident for children and young people with existing education, health and care plans in the following areas:

- Lancaster and Morecambe
- Fleetwood and Lytham St Annes
- Accrington and Burnley
- Colne and Nelson
- Preston and Leyland
- Ormskirk and Skelmersdale.

### **Special educational needs units attached to mainstream schools**

The lack of special educational needs units on mainstream school sites was addressed in the SEND Sufficiency Strategy with a recommendation to create 12 special educational needs units attached to mainstream primary schools and a further 12 units attached to mainstream secondary schools, creating an additional 288 special educational needs units places.

The recommendation was that the age range and type of special educational need in each locality identified with increased demand would be the same. Two units in each of the six locations identified above would be attached to mainstream primary schools, one of which would be for children with autism spectrum disorders and the other for children presenting with social, emotional and mental health needs. Two of the units would be attached to mainstream secondary schools within the six areas identified above one catering for young people presenting with autism spectrum disorders and the other for young people presenting with social, emotional and mental health needs.

Between 7 February and 20 March 2020, all state funded mainstream schools in Lancashire were invited to put forward an expression of interest to create a special educational needs unit. All applications were considered against a set of pre-determined criteria. Schools were asked to give consideration to the following:

- Location;
- Track record of supporting pupils with special educational needs;

- Accommodation available within the school including the cost of and time required for converting any existing space;
- Knowledge and experience of special educational needs within the leadership team;
- Links with other specialist providers;
- Governors' support.

Seven applications to create special educational needs units attached to mainstream primary schools in the areas identified above were successful. No applications were received from mainstream secondary schools by the 20 March deadline.

A decision was made by the headteachers of three of the primary schools to delay the progression of their application to create a special educational need unit due to arrangements for the wider opening of schools being implemented, following the coronavirus outbreak.

More specific information about each of the special educational needs units being proposed for the four primary schools is provided in the table below.

| <b>School name</b>                               | <b>Location</b>            | <b>Age range</b> | <b>Type of special educational need</b>                     | <b>Number of pupils</b> |
|--|----------------------------|------------------|---|-------------------------|
| Barrowford Primary School                        | Colne and Nelson           | 4 to 11 years    | Social, emotional and mental health                         | 8 to 16                 |
| Lytham Church of England Primary School          | Fleetwood/ Lytham St Annes | 4 to 11 years    | Autism spectrum disorder/speech, language and communication | 8 to 10                 |
| St Leonard's VA Church of England Primary School | Accrington and Burnley     | 4 to 11 years    | Autism spectrum disorder/speech, language and communication | 8 to 16                 |
| Weeton Primary School.                           | Fleetwood/ Lytham St Annes | 4 to 11 years    | Social, emotional and mental health                         | 8 to 16                 |

### **Expansion of maintained special school provision**

Although the data indicates there are more special school places in Lancashire than there is nationally, current estimates indicate there is likely to be an increase in the secondary school age population over the next five years. There has also been a year on year increase in demand for special school places both nationally and in Lancashire.

The proposal within the SEND Sufficiency Strategy to increase the number of special school places relates to address the growth in demand, triggered by secondary age

population growth, and reflects the national growth in demand for pupils with education, health and care plans by 2024.

Increasing the number of maintained special school places will reduce the demand for more expensive independent and non-maintained special school places as the majority of maintained special schools in Lancashire are over-subscribed. This in turn will alleviate the pressure on High Needs Block funding.

Broadfield Specialist School and Sir Tom Finney Community High School are both special schools for secondary aged pupils between the ages of 11 and 19 with generic learning difficulties that includes: severe learning difficulties, profound and multiple learning difficulties and autism spectrum disorders.

Broadfield Specialist School is currently situated in Oswaldtwistle. The proposal is to move this school to the Hameldon Community College site in Burnley. This will create an additional 60 special school places in a new building that will be adapted specifically to meet the special educational needs of the pupils who attend the school.

The new building will provide more space for equipment, and for pupils to be able to move independently and have access to a range of different facilities which pupils currently have to travel to other sites to use. These include a sports hall and outdoor sports areas, dining halls, properly equipped science laboratories, music, dance and recording studios.

The proposal for Sir Tom Finney Community High School is to open up the upper floor of the building that is currently unoccupied. This will result in the creation of an additional 100 special school places in Preston and improved facilities for pupils attending the school.

### **Informal consultation process**

All of the six capital projects identified above are subject to the statutory process required for making prescribed alterations to schools.

The statutory process for making prescribed alterations to schools has four stages:

| Stage   | Description                                | Timescale   | Comments  |
|---------|--|---|---|
| Stage 1 | Publication<br>(statutory proposal/notice) |   |   |
| Stage 2 | Representation<br>(formal consultation)    | Must be 4 weeks   | As set out in the 'Prescribed Alterations' regulations                    |
| Stage 3 | Decision                                   | LA should decide a proposal within 2 months otherwise it will fall to the | Any appeal to the adjudicator must be made within 4 weeks of the decision |

|         |                |                         |  |
|---------|----------------|-------------------------|--|
|         |                | Schools Adjudicator     |  |
| Stage 4 | Implementation | No prescribed timescale | It must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker |

Although the 'pre-publication' consultation period is no longer a statutory requirement for prescribed alterations to schools there is an expectation that schools and local authorities will consult interested parties in developing a proposal prior to publication, to take into account all relevant considerations. The informal consultations described in this report for the six capital projects are non-statutory 'pre-publication' consultations.

Informal consultation was undertaken between 10 July and 18 September 2020 for the following projects:

- the creation of a special educational needs unit attached to Barrowford Primary School;
- the creation of a special educational needs unit attached to Lytham Church of England Primary School;
- the creation of a special educational needs unit attached to St Leonard's Voluntary Aided Church of England Primary School;
- the creation of a special educational needs unit attached to Weeton Primary School;
- the expansion and relocation of Broadfield Specialist School from its current location to the Hameldon Community College site in Burnley to create 60 more special school places;
- the expansion of Sir Tom Finney Community High School to create 100 more special school places.

The informal consultations for each of the schools comprised:

- an online survey via the Lancashire County Council 'Have your say' website that was made available to the parents of children attending, the staff and governing body of the school concerned as well as another interested parties;
- access on request to a paper copy of the information provided in the online survey;
- a meeting at the school for parents, staff, the governing body and other interested parties to consider the special educational needs unit proposal, these were carried out in face-to-face meetings and via virtual media platforms.

### **Results of informal consultations**

79% of respondents to the consultations for Broadfield Specialist School and 85% of respondents for Sir Tom Finney Community High School were in favour of the proposals for these schools. The main reasons given for these were the improved facilities and space that would be available as a result of the expansion and relocation of Broadfield Specialist School and the expansion of Sir Tom Finney Community High School. Respondents objecting to these proposals referred to the impact on individual pupils, for example the difficulties with undertaking a transition to another site or whether increasing the size of the school would have an adverse



effect. It should be noted there were only 14 respondents to the consultation for Sir Tom Finney Community High School.

At least 70% respondents were in favour of the proposals to create special educational needs units at Barrowford Primary School, Lytham Church of England Primary School and St Leonard's Voluntary Aided Church of England Primary School. The majority of respondents to each of these consultations had children already attending the schools and most of these did not have special needs and so are unlikely to benefit directly.

53% of respondents to the consultation for Weeton Primary School were in favour of the proposal to create a special educational needs unit at this school. 16% indicated they were unable to say whether they agreed or disagreed with the proposal. The comments provided indicated that more people were in favour of the proposal and some indicated that more information was likely to be helpful. Most of the concerns raised related to the potential impact of the children attending the unit might have on other pupils without social, emotional and mental health needs.

Weeton Primary School is situated in Weeton Barracks and therefore many of the pupils are the children of military personnel. In total there are 127 pupils on roll at the school, 45 of whom will leave the school by the end of October and approximately 85 will join the school before the end of this term as a result of changes to military postings. It will be possible to address the concerns raised by respondents before and during the period of formal consultation and therefore approval is being sought to publish the statutory notice in advance of the formal consultation period for all four primary schools.

A more in-depth summary of the results of the consultation feedback from all six schools is provided in Appendix 'B'. Equality analyses will be completed for all six projects at the end of the formal consultation period, subject to cabinet approval.

### **Proposed changes to the approach for seeking Cabinet approval for school place planning processes**

Prescribed alterations or significant changes to maintained and special schools are subject to the Department for Education statutory guidance for proposers and decision-makers October 2018. Changes to schools that fall within this statutory guidance include:

- enlargement of premises;
- expansion onto an additional or transfer to a new site or closing an additional site;
- changes to the published admissions number where enlargement has not taken place or number of pupils in a special school;
- changes of age range;
- adding a sixth form;
- changes of category for example making a change to the religious character of the school from voluntary controlled to voluntary aided or adding or removing a foundation;
- changes from a single sex school to co-educational and vice versa;

- establishing removing or altering special educational needs provision within a mainstream school;
- changes to the type of need catered for by a special school;
- changes to boarding provision;
- removal of selective admission arrangements at a grammar school;
- Amalgamations.

The current approach requires Cabinet approval on three separate occasions when seeking to make a prescribed alteration to a school.

| <b>Process</b>  | <b>Cabinet recommendation</b>  |
|---|--|
| <b>Cabinet Report 1</b> – Inform of proposal to make a prescribed alteration to a school                      | <ul style="list-style-type: none"> <li>• Agree that a period of informal consultation be undertaken</li> </ul>   |
| Informal consultation on the proposals to make a prescribed alteration to a school (non-statutory stage)      | 4 weeks  |
| <b>Cabinet Report 2</b> - Inform on the responses to the consultation and seek permission to publish notices  | <ul style="list-style-type: none"> <li>• Note the consultation arrangements and responses that were received</li> <li>• Agree to publish a statutory notice</li> </ul>   |
| Publish statutory notices   |  |
| Representation period   | 4 weeks  |
| <b>Cabinet report 3</b> - Decision which must be made within 2 months of the end of the representation period | <ul style="list-style-type: none"> <li>• Consider the information in the report</li> <li>• Approve the proposal to make a prescribed alteration</li> <li>• Approve that a statutory decision letter be sent out</li> </ul> |
| Implementation  |  |

The proposal is to reduce the number of occasions Cabinet approval is required by omitting the second cabinet report. It is proposed that the review of the responses to informal non-statutory consultations and the decision to publish a statutory proposal and proceed with the formal consultation period would be delegated to the Executive Director for Education and Children's Services, in consultation with the Cabinet Member for Children, Young People and Schools. By exception, the decision could be made to seek Cabinet approval where a proposal was contentious, and where the results of the informal non-statutory consultation indicated the proposal required amending substantially.

The stages relating to the first and third cabinet reports would not change.

### **Equal opportunities**

In making any changes to provision, the local authority must comply with the Public Sector Equality Duty which requires 'due regard' to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and
- foster good relations between people who share a relevant protected characteristic and people who do not share it.

## **Risk management**

The county council and partners across education, health and care are required to work together to plan for and meet the needs of children and young people who have special educational needs and disabilities, in line with the Special Educational Needs and Disabilities Code of Practice 2014.

## **Financial Implications**

High needs funding within the Dedicated Schools Grant supports provision for children and young people with special educational needs and disabilities. This funding enables local authorities and education providers to meet their statutory duties under the Children and Families Act 2014.

The escalating pressures on the high needs block are not unique to Lancashire. The special educational needs reforms introduced in 2014, placed new statutory duties on all Local Authorities, which included an extension in the age range from birth to twenty-five years, previously this was up to the school leaving age of sixteen for the majority of young people.

Nationally the average spend on high needs has increased, and high needs block allocations fall short of existing levels of expenditure and, despite increased funding and the use of Dedicated Schools Grant reserves to support the high needs block, a net deficit continues.

The Local Government Association and Isos Partnership recently published a joint piece of research reviewing the funding for children and young people with special educational needs and disabilities. This was a detailed research project drawing on large numbers of local authority databases and with which Lancashire County Council was involved. One of the key findings of this research was that: "If the system were to continue as now, and we project forward the current reported level of deficit, we estimate that there could be a national deficit on high needs spending between £1.2 billion and £1.6 billion by 2021."

The council has undertaken its own preliminary financial forecast. The initial findings indicate a potential shortfall of circa £42 million by 2023/24, within a possible range of £30 million to £50 million. This forecast takes into account national and local trends and assumes no additional funding will be made available from the government, or through the transfer of funds from the schools' block.

85% of expenditure is on places and top-ups which are committed to individual children/placements and it will be necessary to maintain the majority of these over

time, and at the very least, until the child or young person reaches the end of a particular phase of their education.

Lancashire's allocation of the Special Provision Capital Funding provided by the government is £3.5 million. The purpose of this funding is to help local authorities ensure there are sufficient good school places for all pupils, including those with special educational needs and disabilities. This funding can be used to establish new school places.

An additional £6.5 million has been allocated from the basic needs grant for Lancashire to provide sufficient pupil places for children and young people with special educational needs and disabilities.

The financial implications of the proposal are set out at Appendix 'D' and are deemed to be Part II for the reason set out below:

This section of the report contains information relating to the financial or business affairs of any particular person (including the authority holding that information).

## **Procurement**

The selection of contractors to undertake the capital works will be carried out in full compliance with the Public Contract Regulations 2015, either through the use of an established framework such as the rotational list for building works, the Partnering Framework, or through undertaking a compliant procurement exercise where appropriate.

## **Equality and Cohesion**

This proposal impacts on both the age (young people) and disability protected characteristics of the Equality Act 2010, and is designed to contribute positively to the Public Sector Equality Duty's general aim of advancing equality of opportunity and its related aim of increasing participation in public life for these children and young people, their families and carers. The information contained within the report indicates that there are fewer children and young people educated in mainstream schools in Lancashire than nationally. There are also more children educated in specialist provision and secondary alternative provision than nationally.

The lack of access to supported provision in mainstream schools and to local specialist provision of particular designations and for those with the most complex needs is resulting in some children and young people travelling to schools outside their community.

## **List of Background Papers**

| Paper | Date | Contact/Tel |
|-------|------|-------------|
| None  |      |             |

Reason for inclusion in Part II, if appropriate

Appendix 'D' is not for publication - Exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.