

## EXECUTIVE DECISION

**From:** Matt Dunkley CBE, Corporate Director of Children, Young People and Education (CYPE)

**To:** Shellina Prendergast, Cabinet Member for Education and Skills

**Subject:** Increasing capacity within The Education Programme to fulfil SEND's (Special Educational Needs and Disabilities Service) responsibilities for tuition when required

**Key decision** Overall service value exceeds £1m and affects more than two Electoral Divisions.

**Decision Number:** 21/00052

**Classification:** Unrestricted

**Past Pathway of report:** Children, Young People and Education Cabinet Committee – 30th June 2021

**Future Pathway of report:** Cabinet Member Decision

**Electoral Division:** All

### Summary:

This report presents to the Cabinet Member the rationale for increasing capacity for the delivery of one-to-one tuition from The Education Programme, within the Education Directorate, in order to support the majority of 16-year-olds who are referred by the SEND Service as a temporary education provision prior to receiving a special school or other place.

### Recommendation(s):

The Cabinet Member for Education and Skills is as asked to take the proposed decision (attached as Appendix A) to:

A) Increase the capacity within The Education Programme to fulfil the SEND (Special Educational Needs and Disabilities) Service's responsibilities to provide education provision for children and young people (CYP) with Education, Health and Care Plans (EHC Plans) who are not attending school; and

B) Delegate decisions about the establishment of the new arrangements to the Corporate Director for Children, Young People and Education (CYPE), or other Officer as instructed by the Corporate Director for CYPE.

## 1. Introduction

1.1 SEND Service teams require tuition to meet a child's Education, Health and Care Plan's (EHCP) education provision short-term whilst a long-term placement is sought, most often due to a delay in finding a special school place.

1.2 There are two distinct types of tuition arrangement utilised by Kent County Council (KCC):

- An internal provision provided by The Education Programme within Fair Access, Education, a programme created to support interim education for permanently excluded CYP but has increasingly supported the SEND Service with providing CYP with EHCPs who are without education.
- Spot purchased placements with external tuition companies (including small group provision at a tutor's home/group location).

1.3 Currently the SEND Service consult with The Education Programme before referring to the external market. There is not a Service Level Agreement (SLA) in place between the SEND Service and Education to describe the service to be delivered; quantities, quality and Key Performance Indicators (KPIs).

1.4 The SEND Service spend for tuition in 2019-20 is summarised below:

<b>Table 1</b>	
<b>Provider</b>	<b>Spend</b>
<b>Internal</b> The Education Programme for students requiring longer than 12 weeks <sup>1</sup>	£210,163
<b>External</b> Equivalent standard <sup>2</sup> Tuition	£711,086
<b>External</b> Other/Complex <sup>3</sup> Tuition	£706,763
<b>Total</b>	<b>£1,628,012</b>

The internal spend is limited by The Education Programme's current maximum capacity. External spend is currently spot purchased. 2019-20 data has been used rather than more recent data as COVID has impacted the delivery and use of tuition during 2020-21.

### **The Education Programme**

1.5 The Education Programme budget currently funds the first 12 weeks a student is placed with them. Additionally, the programme receives funding from the SEND Service for placements longer than 12 weeks.

1.6 The Education Programme's budget for 2020-21 is comprised of the figures as listed in the table below, including the overspend stated in 1.5:

<b>Table 2</b>
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<sup>1</sup> The Education Programme funds the first 12 weeks of placements from the Education budget, see 1.5.

<sup>2</sup> Equivalent standard placements are those for under 16-year-olds requiring one to one tuition (i.e., not group tuition or Educated Other Than At School (EOTAS) non-academic provision).

<sup>3</sup> Other tuition refers to post-16, group or EOTAS non-academic provision.

<b>Source of Funding for The Education Programme</b>	<b>2019/20</b>	<b>2020-21</b>
Dedicated Schools Grant (DSG)	£591,600	£591,600
SEND Funding	£210,163	£292,462
Other Income	£64,374	£24,831
<b>Total Budget</b>	<b>£866,137</b>	<b>£908,893</b>
Underspend (transferred to DSG reserve)	-£51,749	-£28,979
<b>Total Cost</b>	<b>£814,388</b>	<b>£879,914</b>

1.7 In total, for the year 2020-21, The Education Programme cost £879,914 to deliver services as it does presently.

1.8 The following table provides a breakdown of equivalent standard placements and the changes across the period 2017-20:

<b>Table 3</b>			
<b>Year</b>	<b>The Education Programme</b>	<b>External Equivalent Standard Tuition</b>	<b>Total</b>
2017/18	191	57	248
<b>Change 17/18 to 18/19</b>	<b>+2</b>	<b>+4</b>	<b>+6</b>
2018/19	193	61	255
<b>Change 18/19 to 19/20</b>	<b>-67</b>	<b>+29</b>	<b>-39</b>
2019/20	126	90	216

1.9 Although the overall trend in tuition places reduced from 2018-19 to 2019-20, 2019-20 figures were impacted by COVID 19 and it is anticipated that 2020-21 figures will be higher than those of 2018-19.

1.10 Impact of COVID 19 - although difficult to predict at this point, we are anticipating increased requirement for tuition as a direct response to the pandemic as emotional based school avoidance is on the increase with some CYP having retreated to their bedrooms and finding it very difficult to reintegrate with schooling.

1.11 KCC's current policy is that under 16-year-olds requiring one to one tuition are referred to The Education Programme within Education but current capacity prevents the programme being able to accept all eligible students. Hence there has been year on year growth in the external market for both equivalent standard and other tuition.

1.12 This report focusses on the proposal to increase the capacity of The Education Programme, to meet the requirements of the SEND Service for all equivalent standard placements, one to one tuition for under 16 year olds.

1.13 However, The Education Programme currently does not offer:

- provision for over 16-year-olds;
- group tuition;
- Educated Other Than At School (EOTAS) in non-academic subjects e.g. riding therapy; and
- formal qualifications such as GCSEs.

1.14 There will need to be a further commissioning exercise to scope and understand how best to support these needs, including discussions with The Education Programme regarding potential expansion of their scope if appropriate.

## 2. Options Appraisal

2.1 **Option 1** – Do nothing continue using The Education Programme with its current capacity and spot purchasing with external companies for the additional places required.

2.2.1 This option is not recommended as it does not comply with the Public Contract Regulations 2015 and could mean students receive inequitable provision depending on the source of their tuition. This option also limits KCC's ability to shape and control the market to ensure the right capacity and provision is available for students.

2.2 **Option 2** – Continue using The Education Programme with its current capacity and formalise external commissioning for the additional places required.

2.3.1 This option is not recommended as the spend per student with external providers would remain higher than alternative options and the offer for students would remain inequitable depending upon the source of tuition, growing internal provision (Option 3) allows for better control of quality.

2.3 **Option 3 – Recommended Option** to increase The Education Programme's capacity to support the majority of under 16-year-olds requiring one to one tuition by the SEND Service and, through a separate commissioning exercise, formalise arrangements for purchasing externally provided tuition for the other purposes listed under 1.13.

2.3.1 The spend on this service would comply with regulations and a formal SLA would be put in place to ensure that there was clarity about purpose and capacity of new service. Provision would be in line with KCC practice, the cost of the service per student will be reduced and the offer for students will be improved.

- 2.3.2 At present, the SEND Service refers all under 16 students without a school place requiring temporary one to one tuition to The Education Programme. The proposed arrangements will enable the programme to accept all referrals of students with capacity above Early Years Foundation Stage (EYFS). The exception will be complex cases, to be defined in the SLA, and further commissioning work is required to determine the best solution for meeting this need.
- 2.3.3 For complex cases, The Education Programme's undertake further risk assessments and discussions between the SEND Service and The Education Programme are held in order to implement provision. This will be considered in the SLA and guidance developed.
- 2.3.4 Increasing the capacity of The Education Programme will improve the process for referring CYP into the service, reducing the time taken from referral to the service starting; the proposed arrangements would allow students to start tuition within a week of being without a placement. To enable this, it is proposed to increase capacity to allow 108 students to be supported simultaneously, and a maximum of 292 over a year allowing for variations in support required.
- 2.4 The Education Programme's current offer includes:
- emotional wellbeing, which is not available from most of the current external tuition providers. The Virtual Learning Environment (VLE) support includes emotional wellbeing. This is a unique aspect of KCC's VLE;
  - blended learning provided through a combination of online and face to face contact hours, as well as the VLE, independent set work, the blend is varied based on the ability of the student; and
  - support for students to successfully reintegrate in a school placement towards the end of the tuition period.
- 2.5 Investing in a fully funded SLA with The Education Programme would allow the service to:
- Accept referrals of students still on roll with a school if the placement had broken down and the student was no longer attending.
  - Increase the core offer to a minimum of 9 contact hours, enhanced by the blended learning package. Over the period 2019-20 the current service offered an average of 5 hours contact time and 5 hours online independent study.
  - Increase the capacity of the service to meet current demand with flexibility to adapt to future changes – see section 4.
  - Additional capacity allows for tuition placements to be made more quickly, reducing the length of time this service is required whilst a young person awaits a placement with a Non-Maintained or Independent Special School (NMISS).

- An SLA can be designed to allow The Education Programme to adapt more easily to manage future changes in demand, the service will have the ability to recruit temporary staff to support increases in year if necessary which will be monitored to determine ongoing capacity needs.
- Joined up work with other areas of the Council, such as SEND Therapies, to ensure students receive the package of support as detailed in their EHCPs. At present therapeutic support can be a gap for students with tuition placements.

2.6 Whilst this provision should be full-time, many students referred to The Education Programme require additional support to be able to access education, the support provided is designed to enable this. Packages are designed to emulate a special school curriculum and timetable, with a combination of face-to-face contact and independent work tailored to the physical and mental health needs of the student.

### 3. Proposed Increase

3.1 It is expected that tuition requirements will continue to increase because of the COVID 19 pandemic and as the use for NMISS places increases. However, the SEND Service is making the process of finding a long-term placement more efficient which is expected to reduce this increase. With the uncertainty of increase levels, the proposed figures are calculated on maintaining the current levels of placements and the SLA would allow temporary increases as required. Any spare/additional capacity will be utilised to increase the offer for students.

3.2 The following table outlines the analysis of students placed with external providers whose needs could have potentially been met within The Education Programme given additional capacity in 2019-20. It, also, provides a breakdown of those which could not be met under current criteria but could be met with some additional changes to The Education Programme (to be scoped and agreed within the SLA):

<b>Needs could be met under current arrangements with The Education Programme, given additional capacity</b>		<b>Needs could be met under proposed arrangements with The Education Programme</b>	
Yes	114 (56%)		
No	71 (35%)	Yes	33 (16%)
		No	34 (16%)
		Unknown	4 (2%)
Unknown	18 (9%)		
<b>Total</b>	<b>203</b>		

3.3 The increase in the offer for all students, on average, to 9 contact hours, is comprised of 7 hours with a tutor and 2 hours with a Higher-Level Teaching Assistant (HLTA) online/face to face as appropriate. This will be enhanced with an additional 6 hours support through the Virtual Learning Environment (VLE)/independent set work, giving a total package of 15 hours. The VLE is still under development and not yet at full capacity.

3.4 Enhancing the service with the additional proposed cost of £241,746 to increase the capacity of The Education Programme includes increasing the offer to

discharge our statutory duty of an appropriate timetable and ensure equity across placements.

#### 4. The Education Programme - Proposed Staffing Changes

4.1 The Education Programme's current staffing establishment is as follows:

<b>Role</b>	<b>Current levels Full Time Equivalent (FTE)</b>
Education Programme Co-ordinator	2 (inc. VLE lead)
Lead Officer	1
Tutors Term Time Only (TTO)	14.2
HLTAs TTO	8.7
Administrative Assistant	2

4.2 The Education Programme has proposed the following increases in staffing in order to meet demand (to be finalised as part of the Service Level Agreement), a timeline for the implementation of these changes can be found in Appendix C:

<b>Role</b>	<b>Additional levels required FTE</b>	<b>Kent Scheme (KR) Grade</b>	<b>Proposed additional cost<sup>4</sup></b>
Education Programme Manager	1	12	£65,678
Education Programme Co-ordinator	3	10	£144,621
Tutors TTO	22	8	£607,082
HLTAs TTO	3.5	7	£84,159
Administrative Assistant	2	5	£51,292
<b>Total</b>			<b>£952,832</b>

These figures are based on 2020-21 KCC pay scales, to be comparable with external tuition costs.

4.3 The budget for the enhanced service will be comprised of the £711,086 current spot purchased budget with external tuition providers, plus an additional investment of £330,000 to ensure the service can meet demand for tuition and expand its offer.

#### 5. Financial Implications

5.1 Enhancing The Education Programme current service offer from 5 to 9 hours contact time per week, combined with increasing capacity (additional 100

<sup>4</sup> including on costs based on pensionable staff at the median level but excluding expenses, actual figures may differ due to rate changes, starting salaries etc.

pupils), as recommended in Option 3 above, would cost an additional £1,040,000 – see 4.2 for breakdown. The increase in hours would ensure all students are offered suitable hours per week in a consistent manner to fulfil KCC's statutory duty to provide an appropriate timetable and ensure equity across placements.

- 5.2 If compared on a full year costed basis, the new internal provision will cost £18,300 per student whilst external standard placements cost £18,800+VAT per student. Therefore, funding an enhanced internal service for tuition would represent better value for money than continuing with the current arrangement.
- 5.3 The increase in costs is anticipated to be funded from a saving in the use of external providers for standard tuition. In the 2019-20 financial year, a total of £711,086 was spent on the purchase of 90 equivalent standard placements.
- 5.4 The remaining £330,000 proposed cost increase will be funded from future increases in the High Needs block of the Dedicated Schools Grant. It is recognised this will add additional pressure to this budget however this additional funding will enable the of The Education Programme to increase its offer to be more in line with our current externally commissioned offer, to ensure all tuition placements are equitable and to discharge our statutory duty of an appropriate timetable. The overall cost of the service will still be less than if the equivalent service was commissioned externally.
- 5.5 Formalising the relationship between the SEND Service and The Education Programme with an SLA will ensure equitable placements for students and allow wider services to be joined up to provide a package of support for young people awaiting their next placement.
- 5.6 All tuition provided either in-house (by The Education Programme) or externally is funded through the High Needs block of the Dedicated Schools Grant. The total cost to the SEND Service to support the new SLA per financial year is estimated to be £1,250,000 (final figure may vary slightly when SLA is confirmed).
- 5.7 Quarterly and annual reviews will enable longer term capacity, or changes to the core offer to be scoped and understood, including any financial impact.

## **6. Legal implications**

- 6.1 The statutory assessment process requires the nearest appropriate placement be made for pupils with SEN, however a combination of high demand for places and a lack of maintained special school capacity can mean it may be challenging to identify a suitable placement within statutory timescales. Tuition is used to ensure educational provision is available until a placement is secured.
- 6.2 The proposed SLA with The Education Programme would satisfy KCC's statutory duty (S.19 of the Education Act 1996) to ensure suitable education is provided for children unable to attend school, typically full-time (25 hours) unless a physical or mental health need requires a reduction. The proposal satisfies this requirement as it will reflect the needs of students, as well as

improves the current provision by ensuring all students are offered an appropriate timetable with equitable provision.

- 6.3 There are legal implications and requirements regarding services offering education placements which could be deemed to be schools. As The Education Programme is designed to support short-term placements it is unlikely these requirements will need to be met but the service will be monitored to ensure compliance in this area.

## **7. Equalities implications**

- 7.1 The proposals are to extend an existing service which already complies with equality standards.
- 7.2 An EqIA screening has been completed and found a full action plan was not required. This will continue to be developed and reviewed as this project progresses.

## **8. Other corporate implications**

- 8.1 The proposed arrangements will impact Education as The Education Programme is within that Division.
- 8.2 There is ongoing work to resolve the questions on the limits of a short-term placement service, such as The Education Programme, and the legalities and requirements of longer-term placement services or schools. This project will need to align with that work.

## **9. Governance**

- 9.1 Overall budget and responsibility sits within the Children, Young People and Education Directorate, with accountability falling to Matt Dunkley, Corporate Director of CYPE. Mark Walker, Director of SEN, Disabled Children and Young People, holds responsibility for the budget and Christine McInnes, Director of Education, for the service.

## **10. Conclusions**

- 10.1 Currently, The Education Programme provides the majority of one to one tuition placements for under 16-year-olds and the SEND Service spot purchases any additional placements required from the external market due to the capacity limit of The Education Programme.
- 10.2 Over recent years we have seen a steady increase in the use of tuition and this is expected to continue to rise and be impacted by the COVID pandemic. The numbers of emotional based school avoidance have risen and are predicted to continue to rise as some CYP have retreated to their bedrooms and are fearful of returning to schooling. This proposal would allow the SEND Service to manage this demand.
- 10.3 Increasing the capacity of The Education Programme would be cost effective whilst increasing the average offer of a tuition placement to fully discharge KCC's statutory duty. This increase would also mean students could be placed

more quickly and efficiently in short-term tuition and allow the SEND Service to manage increase in demand for this service.

10.4 An additional investment of £330,000 is needed to ensure The Education Programme is funded to a level to meet demand and to mitigate the need to use the external market for standard tuition. Without this investment, the external market will continue to grow and KCC will have little control over price and quality.

10.5 A further commissioning activity is required to understand the additional purchased tuition for students with more complex and bespoke needs, as detailed in section 4.

## **11. Recommendation(s)**

11.1 The Cabinet Member for Education and Skills is as asked to take the proposed decision (attached as Appendix A) to:

A) Increase the capacity within The Education Programme to fulfil the SEND (Special Educational Needs and Disabilities) Service's responsibilities to provide education provision for children and young people (CYP) with Education, Health and Care Plans (EHC Plans) who are not attending school; and

B) Delegate decisions about the establishment of the new arrangements to the Corporate Director for Children, Young People and Education (CYPE), or other Officer as instructed by the Corporate Director for CYPE.

### **Background Documents:**

Children, Young People and Education Cabinet Committee – 30th June 2021

<http://kcc-app610:9070/ieListDocuments.aspx?MId=8525&x=1&>

## **11. Contact details**

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