

MAYOR AND CABINET		
<b>Report Title</b>	Strengthening Specialist Provision Response to Select Committee	
<b>Key Decision</b>	No	<b>Item No.</b>
<b>Ward</b>	All	
<b>Contributors</b>	Executive Director, Children and Young People Head of Law	
<b>Class</b>	Part 1 Report	<b>Date:</b> 19 June 2013

## 1 Summary

1.1 On the 5 March 2013 the Children & Young People Select Committee received a report entitled 'Strengthening Specialist Provision Monitoring Report'. As a result of the discussions around that report a referral was made to the Mayor & Cabinet:

- *'The Committee commends the concerted progress that has been made during the course of the Strengthening Specialist Provision Programme, including the completion of Drumbeat School, the implementation of Resource Bases at a number of schools, the submission of a planning application for Brent Knoll School and improved relationships between parents and schools.'*
- *'The Committee acknowledges that further long term planning for how to meet the requirements of children with special educational needs is required and would like to play a hand in helping to shape these plans'.*

## 2 Purpose

2.1 This report is to comment on the referral made by the Select Committee.

## 3 Recommendations

3.1 The Mayor is asked to approve the response and report it to the Children and Young People Select Committee.

## 4 Narrative

4.1 The Children & Young People Select Committee has been monitoring the progress of the Strengthening Specialist Provision for children with special educational needs since it carried out a review in 2006/2007 which identified the need to expand the range of specialist provision available in the borough.

- 4.2 The final report was made to the Select Committee on the 5<sup>th</sup> March 2013 and outlined the progress that had been made but also identified that there was continued work that would be needed over the coming years. The Committee noted the considerable change and improvements that had been made to help improve the outcomes for this group of vulnerable children. Officers acknowledged that there is still considerable work that will need to be done and indeed will always need to be done given the change in landscape of work with children with special educational needs and the provisions that are designed to support their needs.
- 4.3 The Committee said that it acknowledges that further long term planning for how to meet the requirements of children with special educational needs is required and would like to play a hand in helping to shape these plans.

Response:

Officers will ensure that reports are submitted to the committee prior to key points of change or development. In addition, in the regular reports on place planning, officers will ensure that matters relating to SEN places are included. A report on the SEN Pathfinder is in this year's work programme which should help to ensure that work is progressed taking into account the Committee's considerations.

## **5 Financial Implications**

- 5.1 There are no specific financial implications arising from this report.

## **6 Legal Implications**

- 6.1 The Human Rights Act 1998 safeguards the rights of children in the borough to educational provision which the local authority is empowered to provide in compliance with its duties under domestic legislation.
- 6.2 Section 14 of the Education Act 1996 places a general duty on local authorities to secure that there are sufficient schools for providing primary and secondary school education and requires them in particular to have regard to the need to secure that special educational provision is made for pupils with special educational needs. Section 315 of the Education Act 1996 requires local authorities to keep their arrangements for special educational needs provision under review.
- 6.3 Section 9 of the Education Act 1996 places a general duty on local authorities and funding authorities to have regard to the general principle that children are educated in accordance with their parents' wishes, so far as that is compatible with the provision of efficient education and training and the avoidance of unreasonable public expenditure.

- 6.4 The Education and Inspections Act 2006 requires local authorities to consider and respond to parental representations when carrying out their planning duty to make sure that there is sufficient primary and secondary provision and suitable SEN provision in their area.
- 6.5 Departmental guidance requires that when proposals are developed for reorganising or altering special educational needs provision local authorities and/or other proposers will need to show how they will improve standards, quality and/or range of educational provision for children with special educational needs.
- 6.6 The Children and Families Bill currently making its way through Parliament proposes significant reform of the present statutory framework for the identification, assessment and consequent provision for children and young persons with SEN. The Bill proposes that local authorities keep local provision under review, co-operate with partners to plan and commission provision and to publish clear information on available services. The Bill also proposes that statements of SEN are replaced by new Education, Health and Care Plans and will extend the rights that parents of children with statements (to express a preference for the school they wish their child to attend) to young people. The Bill also contains proposals which are intended to give parents and young people greater control over the way their support is provided through involvement with local authorities in reviewing services and through the option of personal budgets in certain circumstances.

### **Equalities Legislation**

- 6.7 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.8 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 6.9 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

- 6.10 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 6.11 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
  2. Meeting the equality duty in policy and decision-making
  3. Engagement and the equality duty
  4. Equality objectives and the equality duty
  5. Equality information and the equality duty
- 6.12 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

## **7 Crime & Disorder Implications**

Referenced at points 6.7 to 6.12 in the Legal Implications above.

## **8 Equalities Implications**

There are no specific equalities implications arising from this report.

## **9 Environmental Implications**

There are no specific environmental implications arising from this report.

## **10 Conclusion**

10.1 Good progress has been made in developing provision to help children and young people with special educational needs and this will continue to be a priority for the future.

## 11 Background Documents and Originator

- CYP Select Committee (5 March 2013): 'Strengthening Specialist Provision Monitoring Report'  
<http://councilmeetings.lewisham.gov.uk/documents/g2440/Public%20reports%20pack%2005th-Mar-2013%2019.30%20Children%20and%20Young%20People%20Select%20Committee.pdf?T=10>

If there are any queries on this report, please contact Ian Smith on 0208 314 8140.