

<b>MAYOR AND CABINET</b>		
<b>Report Title</b>	Developing Post 19 Profound Multiple Learning Difficulties (PMLD) Provision at House on the Hill	
<b>Key Decision</b>	Yes	Item No.
<b>Ward</b>		
<b>Contributors</b>	Executive Director for Children and Young People Head of Regeneration and Resources Head of Law	
<b>Class</b>	Part 1	Date: 16 July 2014

## **1. Executive Summary**

- 1.1 This report sets out the need for more in-borough Post 19 provision for young people with Profound and Multiple Learning Disabilities (PMLD) and sets out a proposal to meet these needs through expanding Greenvale School within the House on the Hill site.
- 1.2 This report informs the Mayor of the agreement by Greenvale's Special Schools Governing Board to undertake consultation to extend the age range of their pupils up to 25 years of age.
- 1.3 This is a split report with a Part 2 report to consider the detailed financial implications.

## **2. Recommendations**

- 2.1 The Mayor is recommended to:
  - 2.1.1 Note the need to develop post 19 provision for PMLD pupils within the borough and the options available to achieve this.
  - 2.1.2 Agree that officers should pursue the option of expanding Greenvale School, noting that the Governors are supportive of proceeding with consultation to extend the age range within the school, subject to finding suitable accommodation and further work on the operation of the financial arrangements.
  - 2.1.3 Agree the financial arrangements set out in Part 2 of the report.
  - 2.1.4 Agree to the Director of Regeneration and Asset Services negotiating and finalising the occupancy arrangements for all occupying parties in consultation with Executive Director for Children and Young People and the Head of Law.

### **3. Policy Context**

- 3.1. The proposals within this report are consistent with 'Shaping Our Future: Lewisham's Sustainable Community Strategy' and the Council's corporate priorities. In particular, they relate to the Council's priorities regarding young people's achievement and involvement, including inspiring and supporting young people to achieve their potential, the protection of children and young people and ensuring efficiency, effectiveness and equity in the delivery of excellent services to meet the needs of the community.
- 3.2. It supports the delivery of Lewisham's Children & Young People's Plan (CYPP), which sets out the Council's vision for improving outcomes for all children and young people, and in so doing reducing the achievement gap between our most disadvantaged pupils and their peers. It also articulates the objective of improving outcomes for children with identified Special Educational Needs and Disabilities (SEND) by ensuring that their needs are met.
- 3.3. The Children and Families Act received Royal assent on the 13 March 2014. The Act which becomes Statute on 1<sup>st</sup> September 2014, makes it clear children and young people with SEND should be supported on a consistent basis across Education, Health and Social Care from 0-25 years of age.
- 3.4. Section 15ZA of the Education Act 1996 places a duty on Local Authorities in England to secure suitable education and training to meet the reasonable needs of:
  - (a) persons in their area who are over compulsory school age but under 19,and
  - (b) persons in their area who are aged 19 or over but under 25 and are subject to learning difficulty assessment.
- 3.5. The Education Funding Agency passes funds to institutions and local authorities in accordance with the commissioning decisions of local authorities, pursuant to the Secretary of State's power under section 14 Education Act 2002.

### **4. Background**

- 4.1. The majority of students with special educational need and disabilities over the age of 19 years can have their education and training provision needs met in a mainstream setting. For a small number of students with high levels of special educational need and disabilities over the age of 19 their education and training needs can only be met within specialist provisions.

- 4.2. Lewisham Council currently has 31 students, aged 19 or over but under 25, who have been assessed as being eligible for Specialist Provision as their assessed needs cannot be met by mainstream provision.
- 4.3. Currently all the Independent Specialist Provision for post 19 students with high levels of need are located outside of Lewisham Borough. Lewisham Council currently sends its high needs students to 12 different Independent Specialist Providers. The nearest Independent Specialist Provider is in Bromley, which is where 12 of Lewisham Council's 31 high needs students attend. The other Independent Specialist Providers are in Hampshire, Hertfordshire, Kent, Somerset, Surrey, Lincolnshire, Sussex, Devon, and Northamptonshire.
- 4.4. Whilst the providers are able to meet these young people's educational needs, it is not the best solution for young people to be placed outside of the borough. For many, this means moving away from their families and their home. This also impacts on the consistency of social care support and if the young person moves to another health trust then their health provision moves also. This could therefore mean for some young people that everyone known to them within the education, health and social care network changes.
- 4.5. Under the current Education Funding Agency funding arrangements, high needs students over the age of 19 years with special educational needs and disabilities, who have been assessed as eligible for Specialist Provision will be entitled to three years education and training provision, which will be reassessed every year.
- 4.6. The High Needs Sub Group report which was presented to the School Forum on the 12<sup>th</sup> December 2013 reviewed the costs of High Need Students and highlighted the impact that Independent Specialist Provision was placing on the high needs budget which has a significant overspend. The report noted that the ability to manage this financial pressure now and in the future is limited due to not having appropriate provision within the borough to meet the pupils' additional needs.
- 4.7. The report also highlighted that the current forecast shows that this is unlikely to be a short term pressure due to the expanding pupil population and the consequential increase in pupils with high needs.
- 4.8. While a range of action is being taken to address the high needs overspends, securing Post 19 provision in the borough is important both for the young people and the budget.
- 5. Options to achieve Post 19 PMLD provision within the borough**
- 5.1. Three options have been considered to achieve post 19 PMLD provision within the borough. These are:

- **Greenvale Option.** To work in partnership with Greenvale Special School to seek to make changes to its current age range to enable it to make provision for 11-25 year olds and that House on the Hill be adapted to accommodate this provision.
- **LESOCO Option.** To work in partnership with Lewisham and Southwark College (LESOCO) to deliver education and training for high needs students and that House on the Hill be adapted to accommodate this provision.
- **Commissioned Option.** To commission the service out to an existing Independent Specialist Providers and that House on the Hill be adapted to accommodate this provision.

## 5.2. **Greenvale Option**

- 5.2.1 The majority, if not all of the high needs students will come from Greenvale, and therefore the school has pre-existing relationship with each pupil and a greater understanding of their needs.
- 5.2.2 Officers have an established working partnership with Greenvale Special School. Through this partnership we have been looking at what would be required in terms of the building and in terms of the delivery of a high needs education and training offer to PMLD pupils.
- 5.2.3 Greenvale is a respected and sought after provider within the authority and their latest Ofsted rating is 'Good'. Greenvale have extensive experience of working with PMLD Pupils.
- 5.2.4 There are no current legal restrictions on extending the age range of Greenvale Special School. (see legal implications).

## 5.3. **LESOCO Option**

- 5.3.1 Lewisham and Southwark College are working with post 19 young people with Special Educational Needs and Disabilities. However, they are not currently working with pupils with PMLD.
- 5.3.2 Officers have an established working partnership with LESOCO. The college has acknowledged that they have not previously worked with PMLD pupils and would therefore require additional resources and training to ensure that they could meet this need.
- 5.3.3 LESOCO's current rating with Ofsted is Inadequate.

## 5.4. **Commissioned Option**

- 5.4.1 Officers have also explored the option of commissioning the service out to an Independent Specialist Providers (ISP) to run a satellite provision. Officers have had discussions with an ISP, which specialises in providing education and training for high needs young people with special educational needs and disabilities, to run a satellite at House on the Hill There is likely to be interest from ISPs in tendering for this

provision. However, the current issue relating to increased spend on ISPs may not be reduced by this option.

## **5.5 Preferred Option**

- 5.5.1 Taking into account the three options described above, officers' recommendation is to progress the Greenvale option.
- 5.5.2 The LESOCO option is not recommended as the college is currently assessed as being inadequate by Ofsted and officers' judgement is that it will not have the capacity to meet the additional needs of PMLD students
- 5.5.3 The commissioned option is not recommended as this is too expensive and will have a detrimental impact on the high needs budget.
- 5.5.4 The Greenvale option is the preferred option as the school is judged by Ofsted and officers as being of high quality.
- 5.5.5 Greenvale is already working with the majority of PMLD students within the borough and therefore can build transition into the post 19 provision for these students as part of their ongoing work, as well as maintaining consistency for them across education, health and social care.
- 5.5.6 Greenvale School's governing body is happy to proceed with a consultation. However, they will need more clarity on how the revenue financial arrangements will work between the pre -19 and post – 19 elements of the school. If the recommendations are agreed, officers will continue to work closely with the school to give them the reassurances they need. The Schools Forum has considered the proposal and has agreed that it should be recommended to the Mayor.

## **6 Proposal to achieve Post 19 PMLD provision within the borough**

- 6.1. Subject to completion of school organisation requirements, including consultation on making a prescribed alteration extending the age range, it is proposed that Greenvale should provide education and training for up to 20 post -19 pupils with Profound Multiple Learning Difficulties (PMLD), with effect from September 2015.
- 6.2. Greenvale School does not have the space and facilities within its current building to meet the increase in numbers for post 19 and the needs of these pupils. The Local Authority has identified accommodation (House on the Hill) that with appropriate adaptations would facilitate the post - 19 PMLD provision.
- 6.3. House on the Hill is a single storey building arranged around two external courtyards. Lewisham Council converted the building from offices in 2003 to a residential building. House on the Hill is a Lewisham asset that is currently leased to Action for Children to

provide a residential overnight short break service to disabled children and young people with high levels of need.

- 6.4. Plans are in place to renovate House on the Hill to improve the layout of the building and reduce revenue costs of the residential short breaks service. The current layout of the building means that support to the children who attend the service can only be delivered through 1:1 support, even if their needs do not require that level of support. The high usage of 1:1 support contributes to the high revenue costs of operating the service. Current unit costs are approximately £900 per child per night. Market rates are between £300 - £500 per child per night and the majority of the costs of delivering the House on the Hill service come from staffing.
- 6.5. The residential short break service delivered from House on the Hill neither requires nor utilises all the space in the building. The current building design does not allow underutilised space to be used by other organisations or services. The entire building is unoccupied during the day Monday to Friday because it is only needed by the residential short break service evenings, overnight and weekends. It is proposed that the House on the Hill layout is reconfigured through the renovation works to enable the space to be better utilised by the residential short breaks service and Greenvale's post 19 provision.
- 6.6. Having two providers at House on the Hill with similar client groups will enable the whole building to be used flexibly and maximise the potential of the building. It will also allow some of the expensive specialist equipment and specialist rooms, such as sensory and IT rooms to be utilised by both providers at a shared cost. Having two providers with similar client groups will also enable the providers to understand each others' needs and form a working partnership.
- 6.7. Renovating House on the Hill to accommodate a new specialist provision for high needs students with special educational needs and disabilities to have their education and training needs met will provide Lewisham Council with the potential to manage high needs specialist provision more effectively and potentially reduce the spend on the high needs budget. It has been estimated that this proposal could achieve an estimated saving of £12k per place per year on Independent Specialist Provision placement costs. It is proposed that the new specialist provision would accommodate 20 places at full capacity, which would represent a saving of £240k per annum on the high needs budget.
- 6.8. The proposed new specialist provision will also enable the young people and their families to have more choice and opportunity to continue receiving education and training within their home borough. It will also better support the young people's transition into adulthood and enable them to develop friendships and networks of support within their home borough. This will also have the potential to achieve savings in

the adults social care budget if they subsequently stayed within borough. It is also envisaged that some of the young people who have to take residential placements due to the location of Independent Specialist Provisions would be able to stay in their own homes and travel to and from their homes on a daily basis. This would provide the council with the potential to achieve savings by reducing the number of residential placements both within Children's and Adults services.

- 6.9. In addition to the placements savings, there is also the potential to achieve transport savings. The current cost of transporting students to the nearest Independent Specialist Provider in Bromley costs £112k for 12 students, based on the use of 4 taxis. The projected cost for transport for 20 students to the Bromley Independent Specialist Provider would be £172k, this would be based on the use of 6 taxis. If there were specialist provision at House on the Hill, the projected cost for transport for 20 students would be £142k, based on the use of 5 taxis. This would provide a potential savings of £30k on transport. All the above costs are estimates, the cost may change depending on the location of the student's home and their physical and behaviour needs. If the transport were to providers further away than Bromley, the savings could be greater.
- 6.10. It is proposed to achieve the specification of a building that would meet the needs of two providers for high level needs for children and young people with special educational needs and disabilities. The funding for this is available through grant and a DSG-CERA allocation that has the support of the Schools Forum.
- 6.11. To set up high needs provision elsewhere in the borough, a suitable site would need to be found, either from the council's existing stock of land or purchased. The land would need to have water, drainage, electric and gas routed to it, if it didn't have these utilities already. The most cost effective solution would probably be modular buildings and whilst they provide good value for money, they would be significantly more expensive than the proposed refurbishment and would require planning permission. This process could take a number of years and there would be the possibility of not being able to identify land and making this happen.
- 6.12. Renovating House on the Hill to accommodate education and residential use will require an application for change of use from Planning. Advice from initial conversations with Planning suggests that this should be approved.

## **7. Financial Implications**

The full financial implications for this report are contained in the separate Part 2 report as they indicate the financial funding envelope available for the capital works proposed.

## **7.1. Capital Financial Implications**

- 7.1.1 Work has been undertaken to assess the space and facilities required for a specialist provision for high needs young people with special educational needs and disabilities and the scale and cost of adaptations to provide such a facility. The grounds for this work has been identified though capital grant and an allocation from the Dedicated School Grant Provision for capital expenditure.
- 7.1.2 The proposed use of the building would lead to a more intensive use of the site than is currently the case which would be in line with the capital asset strategy. The reduced use of accommodation for short breaks would have an impact upon the current rental income to the Council implicit within the current Action for Children contract.

## **7.2 Revenue Financial Implications**

- 7.2.1 The current short breaks facility at House on the Hill uses the whole building to support a current case load of 33 young people. The annual cost of the contract with Action for Children is £813,757. It is expected that this annual cost would reduce significantly and would use half of the building rather than all of it. This saving would accrue to the General Fund. The final cost of the provision through any tendering process will need to allow for a rental charge to the successful contractor which may reduce the anticipated saving for this project but the rental charge would also accrue to the General Fund of the Council.
- 7.2.2 During the construction period, the short breaks service will be delivered by AfC from the Ravensbourne Centre. Any costs arising from that decant will be met from within the short breaks budget.
- 7.2.3 The use of out of area placements for Post 19 students with Learning Difficulty assessments incurs an annual cost to Lewisham of £2m.
- 7.2.4 It is estimated that Council day provision for PMLD could be delivered with lower unit costs. In a 20 place centre that would represent a saving of £240k per annum on placement costs.
- 7.2.5 The current cost of transporting students to the nearest Independent Specialist Provider in Bromley costs £112k for 12 students, based on the use of 4 taxis. The projected cost for transport for 20 students to the Bromley Independent Specialist Provider would be £172k, this would be based on the use of 6 taxis. If there were specialist provision at House on the Hill, the projected cost for transport for 20 students would be £142k, based on the use of 5 taxis. This would provide a potential saving of £30k on transport. All the above costs are estimates, the cost may change depending on the location of the student's home and their physical and behaviour needs. If the transport were to establishments more distant than Bromley, the savings could be potentially greater. This saving would accrue to the General Fund of



the Council as home to school transport is a local authority responsibility rather than one funded from the DSG.

- 7.2.6 Once fully operational this provision of 20 places could produce a revenue saving of up to £240k. This revenue saving would accrue to the Dedicated Schools Grant (DSG). The DSG is forecast to have an overspend of £2m for 2015/16 for high needs pupils which includes Post 19 Learning Difficulty and Disability places. This provision would contribute significantly to reducing the pressure on the high needs block within the DSG.
- 7.2.7 The start up for the provision would be phased so that there is a regular intake of post 19 students from the existing Greenvale Sixth Form provision. The expected phasing is an in-take of 5 in September 2015, 8 in September 2016 and then a further 7 in September 2017 when it would be fully occupied with Lewisham students. The staffing of the provision would be commensurate to the size of intake. It is likely that some transitional support would be needed in the first two years which would be finalised with the school when the actual planned intake is known and funded from the Growth Fund set aside within the central expenditure budgets of the DSG. The LA could, with the school, agree to “sell” some of the unused places in the new provision to reduce transitional costs but this would risk Lewisham students being unable to secure places in September 2016 and 2017. This in turn could reduce the savings achieved by the DSG in 2016 and 2017 on such placements.
- 7.2.8 The High Needs Block of the DSG would be funded for these places through the EFA by the inclusion of the students on the December funding return which generates the place funding allocation and the top up funds for these places.
- 7.2.9 As the Local Authority is obliged to make premises available for the use of a maintained school then the Local Authority is not required to seek best consideration in the transfer of the asset. There is therefore a potential rental loss to the Council subject to the amount received for the short breaks provision. Overall the General Fund position on the proposal is positive in that the transport savings should exceed any reduced rental income.
- 7.2.10 The estimated General Fund savings from the implementation of this project are estimated at £362k, the savings to the DSG are estimated at £240k; an aggregate total of £620k.

## **8. Corporate Asset Services Implications**

- 8.1 The House on the Hill property is held within the Property General Fund, effectively within the ‘commercial estate’.

- 8.2 The Property is currently under a rolling annual service agreement, with Action for Children. Action for Children provide short break services to children and young people with disabilities on behalf of Lewisham Council (as described in Section 6 of this report).
- 8.3 The Service Agreement was originally made in 2003 and was due to expire 31<sup>st</sup> March 2014, the agreement was extended to 31<sup>st</sup> January 2015.
- 8.4 The investment in this asset will provide a specific specialist accommodation not yet found elsewhere in the existing property portfolio.
- 8.5 The proposed intensified use may lead to increased “wear and tear” of the property, which needs to be factored into the operational budgets of the users and the occupancy arrangements.
- 8.6 The Corporate Asset Services Team are currently undergoing a full asset review of all of the council’s holdings with a view to regularising and optimising how the estate is deployed. As a result of this work there will be greater transparency as to the cost of various service provisions and the exact allocation of income and costs for all assets.
- 8.7 As a function of the new arrangements described in the recommendations of this report, CAS will negotiate and put in place appropriate leasehold occupancy arrangements.. These will reflect the obligations on the Council to achieve best consideration and best value for its property assets where appropriate.

## **9. Legal Implications**

- 9.1 The Human Rights Act 1998 safeguards the rights of children and where relevant young persons in the borough to educational provision which the local authority is empowered to provide in compliance with its duties under domestic legislation.
- 9.2 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.
- 9.3 Section 15ZA requires local authorities to secure enough suitable, full and part time, education and training opportunities to meet the reasonable needs of the following people in its area:
- young people who are over compulsory school age but under 19; and

- learners aged 19 and over, but under 25 who have (or should have had) a learning difficulty assessment under section 139A or 140 of the Learning and Skills Act 2000 but the duty does not extend to, persons subject to a detention order.
- 9.4 In securing education and training opportunities, local authorities must take account of people's ages, abilities and aptitudes; any learning difficulties they may have; the quality of the education or training; and the locations and times at which those opportunities are provided. In performing these functions local authorities also act with a view to encouraging diversity (in both type of provider and provision) and increasing opportunities for young people to exercise choice.
- 9.5 Under provisions contained in the recently enacted Children and Families Act 2014 and which come into force on 1<sup>st</sup> September 2014 and will be subject to transitional arrangements, the statutory assessment process for assessing special educational needs will continue. However, it will in future need to be co-ordinated across education, health and care. Statements of special educational needs for children and young people will cease and be replaced in due course by a new single multi-agency assessment and care plan, to be referred to as an Education, Health and Care Plan.(EHC Plan) The age range for children and young people who might be eligible for a EHC Plan will extend from 19 to 25 years. Consequently the new EHC Plan will span from 0 -25 years.
- 9.6 With the additional prospective responsibilities in relation to SEN provision as required by the Children and Families Act 2014 the governing body of Greenvale Special School propose to make a prescribed alteration to change the upper age limit to 25 years old. The expansion of the school onto an additional site no longer requires a formal statutory process to be followed.; however the usual principles of public law requiring the need to act rationally, taking into account all relevant considerations and following a fair procedure must be adhered to. The governing body will also need to ensure that the additional new provision is genuinely a change to the existing school and is not a new school.
- 9.7 Section 80 of the School Standards and Framework Act 1998 provides that a Governing Body of a maintained school is responsible for deciding whether or not to provide part time education for pupils over compulsory school age or full time education suitable to the requirements of persons who have attained the age of 19; but the governing body of a community or foundation special school shall not determine to provide or cease to provide, such education without the consent of the local authority.
- 9.8 Section 166 of the Education and Inspections Act 2006 and Collaboration Arrangements (Maintained Schools and Further Education Bodies) (England) Regulations 2007 SI2007/1321 enable

the governing bodies of maintained schools to make collaborative arrangements with further education bodies. This will provide a sufficient basis for discussions with LeSoCo.

- 9.9 Under Section 22(3) of the School Standards and Framework Act 1998, in the case of a community special school the local authority's duty to maintain the school includes the duty of defraying all the expenses of maintaining it, and the duty of making premises available to be used for the purposes of the school.
- 9.10 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.
- 9.11 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.
- 9.12 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.
- 9.13 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/>
- 9.14 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

9.15 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/>

## **10. Crime and Disorder Implications**

10.1 There are no specific crime and disorder implications arising from this report.

## **11. Equalities Implications**

11.1 The initial equality analysis assessment indicates that the proposals in this report would not unlawfully discriminate against any protected characteristics but would positively promote equality of opportunity for children and young people with special educational needs and disabilities.

11.2 As the project develops an Equality Analysis Assessment will be done alongside the work to ensure that 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.

## **12. Environmental Implications**

12.1 There are no specific environmental implications arising from this report.

### BACKGROUND PAPERS

none

If there are any queries on this report please contact Keith Martin,  
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