

Mayor and Cabinet			
Report Title	Response to referral from Children and Young People's Select Committee on 14 February 2018 - SEND		
Key Decision	No	Item No.	
Ward	All		
Contributors	Executive Director, Children and Young People's Services		
Class	Part 1	Date:	27 th June 2018

1. Introduction

1.1. This report provides Mayor and Cabinet with a response to the referral from Children and Young People's Select Committee on 14 February 2018.

2. Summary

2.1. The referral made the following points and an officer response is given to each point

1.	We have heard a number of concerns from parents about the effects on their daily lives resulting from changes to travel assistance and short breaks funding for children with SEND.	Eligibility criteria for travel assistance and short breaks have remained the same despite budget pressures.
2.	We appreciate that the current financial climate necessitates making difficult funding decisions in order to achieve savings and reduce overspends.	The current financial climate necessitates work to manage demand for high cost services but legal obligations to provide transport and short breaks to those eligible remain in place.
3.	Proposed changes to after school club and holiday provision could affect parents' ability to work. Making savings in this area can have an undesirable knock-on effect for the wider economy of Lewisham, particularly where parents are no longer able to work, and become reliant on public funds.	This refers to changes to the unique services provided at Drumbeat Special School. The report explains this in paragraph 5. The school and LA are still working together to continue the current service as far as possible.

4.	We note a reduction in numbers of those being provided with free transport, but no compelling evidence that need has reduced.	Like all local authorities, Lewisham uses national eligibility criteria to determine who qualifies for free home School transport. This has not changed but the LA is implementing the criteria and ensuring that only those who meet the criteria receive transport. The LA is also supporting progress to independence through independent travel training. This has led to a reduction in numbers but there is overall upward pressure on demand for transport because of the increase in numbers of pupils with SEND.
5.	We also note that there are proposals to tighten the criteria for eligibility for some short breaks, and that some short breaks may be reduced from full day to half days.	It is not part of any current proposals to tighten the criteria for eligibility for short breaks nor are there plans to reduce short breaks from full day to half day.
6	We would welcome a review of SEND funding levels, in particular of travel assistance and short breaks provision.	This is being undertaken as part of the review of General Fund spend feeding into a new Medium Term Financial Strategy and also the ongoing review of the High Needs Block of the Dedicated Schools Grant.

3. Recommendations

3.1 The Mayor and Cabinet is recommended to:

- approve the responses to the comments from the Children and Young People Select Committee and to report back to the Children and Young People Select Committee.

4. Background information on Lewisham's Short Breaks offer

4.1 For those who are eligible for social care support there are two types of Short Breaks services provided: Targeted Short Breaks and Specialist Short Breaks. These services are aimed at families and children and young people with disabilities with different levels of need.

- Targeted Short Breaks – are for eligible families with disabled children who have additional needs that prevent them from accessing activities

independently and through accessing these activities their parents/ carers are able to take short breaks from their caring responsibilities.

- Specialist Short Breaks - are for eligible families with disabled children who have complex needs and need more regular care and support from their parents/carers to meet their needs and care for them. This service is for families with children and young people who have the highest levels of need and their needs have been assessed by a social worker through the Children's Social Care assessment framework.
- 4.2 In March 2018, there were 483 children and young people with a disability receiving a Short Breaks service. Of these 483 CYP, 243 are receiving a specialist short breaks package and 240 are receiving a targeted short breaks package. Of those receiving Short Breaks 209 (136 Specialist & 73 Targeted) attend Special Schools and have an EHC plan. There are currently 535 CYP in Lewisham Special School, this means that 39% of those who are in Special School have a Short Breaks package.
- 4.3 The Short Breaks service has the following provision in place to meet the needs of children and young people with complex needs; these include:
- Direct payments – for parents to identify, choose and pay for their own support based on the child or young person's care plan.
 - Domiciliary care – the local authority identifies carers from Lewisham's Preferred Provider Framework to meet the assessed needs of the child or young person, this can be within the young person's home or within the community.
 - Lewisham's In House Short Breaks Holiday Clubs - Rockbourne provides a holiday and evening club. Saturday Club, provides a Saturday club. These clubs enable eligible children and young people to socialize in a group setting, where there are trained staff in a suitable provision to meet their additional needs.
 - Commissioned provision for Holiday, Weekend and Overnight - Lewisham has commissioned Ravensbourne to provide this provision to our most complex children and young people with disabilities.
 - Commissioned provision for mentoring and outreach - This is a new service that Lewisham commissioned in 2017, to support young people from 11 years to develop independent skills within the community so that they can be supported to transition to adulthood. The provider would also work with the families to support the continued development of the young person's independent skills.
- 4.4 The Short Breaks service continually reviews its service to meet changing demands. As part of these reviews the service undertook engagement with parents/carers, children and young people with disabilities and professionals. In summary the views in general about the service are positive but families identified that they struggled to cope with challenging behaviour and wanted more support with developing their young person's independent living skills.

4.5 As a result of this, the following changes have been put in place:

- The Short Breaks service has begun work with providers to enable them to be more inclusive of disabled CYP and develop their skills and knowledge to meet their needs.
- Improvements have been made to the initial assessment and annual review process so that families are given more opportunity to work with the Short Breaks coordinators to identify and address the barriers that their child or young person is having with accessing community activities.
- All referrals and annual review go through Social Services Care Planning Panel to be agreed. This will enable all cases to be discussed and barriers to accessing community activity to be reviewed and advice be given to Short Breaks coordinators.
- There has been increased investment in the Max Cards, which will provide financial discounts to families with disabled children and young people to access local and national activities.
- Information on the Local Offer on Short Breaks has been improved.
- Officers have agreed a one year Service Level Agreement with Drumbeat school to run a Short Breaks holiday club, which will provide extra places to children and young people with the highest need, with a pilot option of families being able to pay for childcare.

4.6 The service is also working on potential new developments which includes:

- Development of an in-house Short Breaks Hub, including plans to increase provision to meet the growing demand for specialist services.
- Pilot a new befriending/ mentoring programme to support CYP to develop independent skills and access community services.

4.7 These changes are being made within the existing budget. As part of the review the service did consider changes to the eligibility criteria and the option of half days, however, following the consultation process no changes have been proposed at this point.

5. Background information on childcare for families of children with SEND

5.1 The Local Authority does not have a budget for childcare for school aged children, nor a role to provide such childcare. However, there is a strong expectation from the government that if parents request that their child's school establish wraparound and/ or holiday childcare that the school considers it and should only refuse if there is a reasonable justification. Schools are expected to take the lead in managing the requests from parents and the final decision about what action to take.

5.2 This is not to say that all schools have to provide out of school care themselves, some do, but others out-source the provision. If schools can demonstrate that there is little or no demand for extended services, they

can satisfy the Government requirements merely by signposting to other local provision, such as childminders or nearby out of school clubs.

- 5.3 In Lewisham, most mainstream schools make arrangements for after school clubs. None of the special schools in Lewisham have after school provision except for Drumbeat. This is a normal pattern for special schools across London.
- 5.4 The Short Breaks service has been funding after school and holiday provision at Drumbeat since 2015 following the review of the DSG High Needs Block which identified that the High Needs Block could not fund this activity. However, the Short Breaks does not have a budget to continue this and in 16/17 and 17/18 has incurred an over spend. Over the past year, the service has been working with Drumbeat and parents to review the current after school and holiday club services and put in place a new model.
- 5.5 Drumbeat School has reviewed demand from its parents for an after school club and parents have expressed an interest in continuing this service. Drumbeat will continue to provide this service to families following the Easter term.
- 5.6 The Short Breaks service has been able to develop a new statutory service for service users known to social care and put in place an option for families to pay for specialist childcare places. However, places will be limited.
- 5.7 There may be some children who may need more staff support at the after school and holiday club, and therefore the cost to parents is higher. However, children who need a higher ratio of staff support may be eligible for Short Breaks provision. The Short Breaks service is working with Drumbeat to identify these children and young people. Once identified families will be asked whether they would like to have an assessment or in some cases a reassessment to see what support may be available and how this could be used to support any sessions they may have in the after school or holiday club.
- 5.8 For working families, Drumbeat School has been reminding families of the new government scheme, where families with disabled children can get up to £4,000 a year until they're 17, subject to eligibility and terms and conditions.

6. Background information on Travel Assistance

- 6.1 Over the last 3 years, the number of Lewisham children with SEND receiving travel assistance has reduced due to rigorous implementation of national eligibility criteria and encouragement of independent travel.
- 6.2 Currently, there are 567 children receiving travel assistance; this is 27% of CYP with an EHCP (2088), compared to 37% in 2015/16. In comparison to our neighboring boroughs, Greenwich has 830 CYP receiving travel

assistance which is 58% of CYP with an EHCP (1424). Southwark has 493 receiving travel assistance which is 24% of CYP with an EHCP (2030) and Lambeth has 443 CYP receiving travel assistance which is 19% of CYP with an EHCP (2281).

- 6.3 Historically, Lewisham had provided transport to children without fully assessing need or having a wider range of travel assistance offers. Since 2015/16, there has been a focus on improving our assessment process and in the range of travel assistance offered. This includes:
- All assessments are now undertaken by the travel assistance team, previously these were undertaken by the SEN Service.
 - Parents are given the opportunity to submit an application form detailing what they want to be taken into account as part of the assessment.
 - Increased range of travel assistance options available including direct payments and independent travel training.
 - Where there is a change in need for a child or young person or there is a change in circumstance for the family, they must make the Travel Assistance team aware so that this can be taken into consideration in their assessment.
- 6.4 It is the legal responsibility for parents/carers to ensure that a child of theirs of compulsory school age attends an educational establishment regularly and this means that they are generally responsible for organising the necessary and appropriate travel arrangements for such children to and from such educational establishments. The Council will only provide free travel assistance where it is legally obliged to do so.
- 6.5 The eligibility for travel assistance is set nationally, and Lewisham works to the national eligibility criteria. All applications for travel assistance will be considered on their facts, full details of the eligibility criteria is set out in Lewisham Home to School Transport policy which is available on Lewisham website and Local Offer. The eligibility criteria does not take into account parents/ carers work obligations or other children, unless in very exceptional circumstances.
- 6.6 In 2016/17, academic year the LA received 104 requests for travel assistance, all requests were assessed and 74 of these requests were successful in being eligible for Travel Assistance or providing evidence of exceptional circumstances. Between September 2016 and July 2017 there were 20 appeals of which 10 were upheld. Between September 2017 and February 2018, there have been 133 requests for Travel Assistance and 104 were eligible. During this same period there were 2 appeals and both there upheld.
- 6.7 Since 2015/16, there has been an improvement in our travel assessment processes. As a result, the process is more effective at assessing need and there is an increased range of travel assistance offers. The improvements include:

- 6.8 In November 2016, Lewisham commissioned an Independent Travel Training (ITT) scheme to pilot a Travel Training programme for children and young people who are eligible for Travel Assistance. The pilot is running over a 2 year period. As at February 2018, 65 students had been assessed for the programme, with 4 waiting an assessment. 27 have received the training and of these 16 are now travelling independently to their place of education. There are currently 11 students on the training programme and 10 students are on the waiting list for training.
- 6.9 Current feedback on the Travel Training pilot has been positive, families fed back how beneficial and life changing the training had been for them and their child. It was felt that it was a valuable service and the Local Authority should consider extending to accommodate those at adult age and to support accessing other activities/services, not just places of education.
- 6.10 Lewisham has historically had a significant overspend on the whole of the SEN Travel Assistance budget. The current budget is £2.9m but the spend out-turn for 2017-18 year was £5.2m (£2.02m spend with Lewisham Passenger Service, and £2.5m with external taxi providers, £410k on other transport costs. The balance is on admin costs). The overspend is driven by increasing use of taxis due to higher number of complex children in care as well as an increase in out of borough placements. The Corporate Transport Board is continuing to look at ways to manage the pressures on the budget. However, this will not impact on our statutory duties to meet the needs of those CYP who are eligible for free travel assistance to enable them to access education.
- 6.11 As part of reviewing the commissioning arrangements for the service we have introduced a Dynamic Purchasing System (DPS) to source transport provision from the commercial market. Since going live in April 2017 we have seen an increase competition with an average of 13 bids per mini-competition over the summer, improved the payment process making working for Lewisham more attractive, reduced admin/manual tasks easing work pressures to focus on providing improved customer service. As a result rates for transport services sourced externally were approximately 11% lower than in previous years.
- 6.12 Joint working to develop the Travel Assistance offer continues with Schools, parents and numerous services within the council. The intention that the joint working will be used to continually develop the service to meets the needs of the users of the service as well as meeting the financial pressures on the Travel Assistance budget.

7. Financial Implications

- 7.1 This report provides a response to the referral from Children and Young People's Select Committee. There are no proposals within this report which will create new financial impact. However, the report outlines details on the Short Breaks and Travel Assistance budget.

7.2 Travel assistance budget overspent in 2017/18 and this is expected to be the same position in 2018-19. The Short breaks budget is however expected to be balanced in 2018-19 especially following proposed service plans around Drumbeat. In 2017-18 the Short breaks budget variance was favourable.

8. Legal Implications

8.1 The Council has various statutory duties and powers in relation to the matters set out in the report, as set out in the report. When taking decisions about these matters, officers will take account of these legal issues. In addition to those legal implications previously referred to in this report, members attention is drawn to the following.

8.2 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.

8.3 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 is compatible with the provision of efficient education and training and the avoidance of unreasonable public expenditure.

8.4 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 there is sufficient primary and secondary provision and suitable Special Educational Needs provision in their area.

8.5 Departmental guidance requires that when proposals are being 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.

8.6 Part 3 of the Children and Families Act 2014 introduced major reforms to the statutory framework for children and young persons with special educational needs. The local authority retains the pivotal role in identifying, assessing, and securing the educational provision for children and young people with special educational needs.

8.7 The Children and Families Act 2014 requires: that in exercising their functions in relation to special educational needs local authorities must have regard to four guiding principles:

- the views, wishes and feelings of the child and their parent , or the young person;
- ensure children young people and parents participate in decision-making;
- provide the necessary information and support to help children, young people and parents participate in decision making; and

- support children, young people and parents in order that children and young people can achieve the best possible educational and other outcomes.
- 8.8 The Equality Act 2010 introduced a new public sector equality 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.
- 8.9 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.
- 8.10 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.
- 8.11 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-andpolicy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 8.12 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

8.13 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-andguidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

9. Crime and Disorder Implications

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

10. Equalities Implications

10.1 Our transport policies have been subject to equalities assessment and comply with legal requirements. Our SEND strategy focuses on equality and inclusion for children with SEND. Part of this is prioritising work to promote young people's independence.

11. Environmental Implications

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

If you have any queries on this report, please contact Sara Williams, Executive Director for Children and Young People, telephone 020 8314 8527