

CABINET

12 September 2023

MEMORANDUM OF UNDERSTANDING - DEPARTMENT FOR EDUCATION SEND CHANGE PROGRAMME

Report of the Chief Executive

Strategic Aim:	A county for everyone	
Key Decision: No	Forward Plan Reference: FP/250823	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr G Waller, Leader of the Council Cllr A Johnson, Deputy Leader and Portfolio Holder for Resources Cllr T Smith, Portfolio Holder for Children's Services	
Contact Officer(s):	Andrew Merry, Deputy s151 Officer	01572 758152 amerry@rutland.gov.uk
	Angela Wakefield, Strategic Director of Law and Governance (Monitoring Officer)	01572 758220 awakefield@rutland.gov.uk
Ward Councillors	N/A	

DECISION RECOMMENDATIONS

That Cabinet:

1. Notes the agreement of the Chief Executive, Leader, Portfolio Holder for Finance and Chief Finance Officer to the acceptance of terms and conditions within the memorandum of understanding for the Special Educational Needs and Disabilities and Alternative Provision Change Programme.

1. PURPOSE OF THE REPORT

- 1.1 To inform Cabinet of the Change Programme Partnership and associated finances in relation to the national SEND and Alternative Provision reforms.

2. BACKGROUND AND MAIN CONSIDERATIONS

2.1 The Department for Education (DfE) set out its reform plans in the Special Educational Needs and Disabilities and Alternative Provision (SEND and AP) Improvement Plan in March 2023 (appendix A). Measures confirmed in the Improvement Plan include:

- a new leadership level National Professional Qualification for Special Educational Needs Co-ordinators (NPQ for SENCOs), ensuring SENCOs have the training they need to provide the right support to children.
- a new approach to Alternative Provision (AP) which will focus on preparing children to return to mainstream or prepare for adulthood. AP will act as an intervention within mainstream education, as well as high-quality standalone provision, in an approach that meets children's needs earlier and helps prevent escalation.
- a doubling of the number of supported internship places by 2025, from around 2,500 to around 5,000, to help young people make the transition into adulthood.
- developing innovative approaches for short breaks for children, young people and their families, providing crucial respite for families of children with complex needs and to test new services including play, sports, arts and independent living activities, allowing parents time to themselves, while their child enjoys learning new skills.

2.2 Local authorities across the country have been selected by the Department for Education to deliver a ground-breaking new programme to test and refine the SEND and Alternative Provision reforms to services for young people and families. The local authorities will help inform the development of new national standards to improve the consistency of provision across the country. These areas will be known as Change Programme Partnerships.

2.3 Each area will also bring together education and health services, as well as parents and families to develop an inclusion plan that sets out how they will deliver local services in a co-ordinated way. This addresses feedback from families that the current system is often fragmented with agencies not working together.

3. CHANGE PROGRAMME PARTNERSHIPS

3.1 Rutland have been confirmed as a joint lead for the East Midlands Change Programme Partnership (CPP) alongside Leicester City and Leicestershire.

3.2 The CPP will be testing the key system-level reforms set out in the SEND & AP Improvement Plan that we expect will deliver the system and culture changes needed to improve outcomes and experiences for children and young people with SEND or in AP and their families. This is backed by £5.8m grant funding for each region.

3.3 Importantly, Rutland County Council will act as the 'banker' for the East Midlands CPP and therefore will hold the full grant monies and distribute as required. This will be informed by the CPP Strategic Plan which will be drawn up in the set up phase of the programme. The set up phase is due to begin in September 2023 with

a national launch date on 19 September 2023.

- 3.4 As the lead finance LA within the CPP, Rutland is required to sign a memorandum of understanding accepting the grant terms and conditions. This was received from the Department for Education on Friday 18 August with a requirement to sign and return to them by 1 September.

4. MEMORANDUM OF UNDERSTANDING

- 4.1 The purpose of the MOU is to formalise the working relationship and expectations relating to the payments of grants for the SEND and AP Change Programme between DfE and CPP Lead LAs.

- 4.2 The grant is paid based on the understanding that the funding be used solely for the purposes of the SEND and AP Change Programme and The Secretary of State will require a declaration of unspent funds by the Recipient to enable DfE to adjust future payments, in line with the agreed payment profile and collect accurate information on the actual cost of the on implementing policy reforms and system change.

- 4.3 The MOU also sets out the expectations of the Lead Local Authority (LA) role (or all LAs in the jointly led CPP model):

- To test and refine the package of reforms in their local area as set out in Policy Guidance which will be shared with LAs. This includes ensuring consistent testing across the CPP according to the Policy Guidance provided by DfE.
- To provide leadership across the Change Programme Partnership (CPP)
- To drive change and share practice
- To manage and disburse funding across the CPP and ensure that funding is used for the purpose of the programme.
- To monitor progress and delivery

5. CONSULTATION

- 5.1 The Chief Executive and Strategic Director for Children and Families consulted with the relevant portfolio holders on 22 August, and verbal consent was given by all authorising the Chief Executive and Chief Finance Officer to agree and sign the memorandum of understanding.

6. ALTERNATIVE OPTIONS

- 6.1 The only alternative option would have been to miss the deadline for signing the memorandum of understanding, putting the whole East Midlands CPP at risk of losing the funding. This was therefore discounted.

7. FINANCIAL IMPLICATIONS

- 7.1 The total value of the grant is £6.3m across the East Midlands CPP over the 2 year programme and will be paid in instalments (including the NHS ELSEC funding¹). In

¹ Early Language Support for Every Child Pathfinder (ELSEC) – Leicester City

the financial year 2023-24 the first payment will be made on signing the MOU with the second payment made once the CPP has produced a Strategic Delivery Plan. The Strategic Plan governs what the money will be spent on which is within the set up phase of the programme as detailed at paragraph 3.3.

7.2 The following tables show the grant breakdown and schedule of payments:

TABLE 1 FUNDING AMOUNTS PER CPP

Activity	Year 1	Year 2	Total
CPP Testing of reforms and Taskforce activities	£1,986,666.67	£3,909,833.33	£5,896,500.00
For ELSEC Pathfinder LA (one LA only)	£251,653.11	£251,653.11	£503,306.22
Total	£2,238,319.78	£4,161,486.44	£6,399,806.22

TABLE 2 – FUNDING PAYMENTS EXPECTED DATES OF PAYMENT

Month	FY23/24	FY24/25
Sep-23	£409,636.08	
Dec-23	£977,255.13	
Feb-24	£851,428.57	
Jun-24		£1,554,930.89
Oct-24		£1,303,277.78
Feb-25		£1,303,277.78
Total	£2,238,319.78	£4,161,486.44

7.3 Payments for 2024-25 will be made contingent on a review of Change Programme delivery and the Recipient’s expenditure statements for the previous financial year.

8. LEGAL AND GOVERNANCE CONSIDERATIONS

8.1 The MOU has no legal status under English Law or any other law and cannot be construed as a contract or grant agreement in the sense of a legally binding agreement between the Secretary of State for Education and Lead LA which is enforceable in the courts.

8.2 In order for the Council to confirm agreement to the MOU as detailed above, the Financial Procedures Rules allow for short notice provisions at 6.6:

“If the Council receives grant funding from Government or other sources, then acceptance of the terms of conditions is the responsibility of Cabinet (where the amount exceeds £1m acceptance will be for Council) unless, in the cases of emergency/short notice, the Council would be at risk of losing funding OR the amount of funding is less than £500k. In these cases, the Chief Executive, Leader/Portfolio Holder for Finance and Chief Finance Officer may agree to the acceptance of terms and conditions but must report back to Cabinet at the next available opportunity.”

8.3 This report is the first opportunity to report to Cabinet on this.

9. CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 9.1 Had the DfE timescales permitted, this would have been taken to Council for acceptance of the grant terms and conditions but since that wasn't possible, we have relied on the short notice provisions in the Financial Procedures Rules to protect the Council's interests and to avoid jeopardising the East Midlands CPP.
- 9.2 It is recommended that Cabinet notes the agreement of the Chief Executive, Leader, Portfolio Holder for Finance and Chief Finance Officer to the acceptance of terms and conditions within the memorandum of understanding for the Special Educational Needs and Disabilities and Alternative Provision Change Programme.

10. BACKGROUND PAPERS

- 10.1 Special Educational Needs and Disabilities (SEND) and Alternative Provision (AP) Improvement Plan <https://www.gov.uk/government/publications/send-and-alternative-provision-improvement-plan>

11. APPENDICES

- 11.1 Exempt Appendix – Memorandum of Understanding Agreement

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.