



Leicester  
City Council

Minutes of the Meeting of the  
CHILDREN, YOUNG PEOPLE AND EDUCATION SCRUTINY COMMISSION

Held: TUESDAY, 25 OCTOBER 2022 at 5:30 pm at City Hall

P R E S E N T :

Councillor Batool (Chair)  
Councillor Willmott (Vice Chair)

Councillor Khan  
Councillor Dr Moore

Councillor Riyait  
Councillor Thalukdar

In Attendance

Deputy City Mayor Russell – Social Care and Anti-Poverty  
Assistant City Mayor Cutkelvin – Education and Housing

Standing Invitees (Non-Voting)

Jennifer Day  
Janet McKenna

Teaching Unions  
Union Representative

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**25. APOLOGIES FOR ABSENCE**

The Chair welcomed those present and led introductions.

There were no apologies for absence.

Meeting confirmed as quorate with 3 elected members present.

5.35pm Cllr Khan and Cllr Thalukdar join the meeting.

**26. DECLARATIONS OF INTEREST**

Members were asked to declare any interests they may have in the business to be discussed.

Councillor Dr Moore declared an interest in SEND items as she was the Chair of the Advisory Board at Millgate School. Councillor Dr Moore gave assurance that she retained an open mind for the purpose of discussion and any decisions being taken, on that basis she was not required to withdraw from the meeting.

5.40pm Councillor Willmott joined the meeting.

## **27. MINUTES OF THE PREVIOUS MEETING**

AGREED:

That the minutes of the meeting of the Children, Young People and Education Scrutiny Commission held on 7<sup>th</sup> September 2022 be confirmed as a correct record.

## **28. CHAIR'S ANNOUNCEMENTS**

None at this time.

## **29. PETITIONS**

The Monitoring Officer reported that no petitions had been received.

## **30. QUESTIONS, REPRESENTATIONS, AND STATEMENTS OF CASE**

It was noted that a number of questions had been received this morning in relation to the Ashfield Academy Residential Provision – Strategic Review. However, under Scrutiny Procedure Rule 10 as set out in the Council's Constitution, questions for scrutiny meetings must be submitted at least five clear days before the meeting. Those questions were therefore not submitted in time to be taken at this meeting.

The Chair asked that officers provide responses in writing to the questions received earlier today outside of the meeting.

## **31. ASH FIELD ACADEMY RESIDENTIAL PROVISION - STRATEGIC REVIEW**

The Chair agreed to a change in the running order of the agenda to take the item on Ashfield Academy Residential Provision – Strategic Review as the first substantive item of business next.

In accordance with Scrutiny Procedure Rule 8 and given that several people were present for this item, including those that posed the questions earlier today, the Chair indicated that she would allow two members of public to make a short address to the commission as part of this item after the report from officers.

The Strategic Director of Social Care and Education submitted a report providing an overview of the strategic review of residential provision at Ashfield Academy and the associated consultation proposal to cease funding with effect from September 2024.

The Director of SEND and Early Help introduced the report and explained the residential provision was currently funded from the High Needs Block (HNB) grant which was awarded to schools for educational purposes. The HNB was

under significant pressure due to increasing numbers of children and young people with special educational needs and disabilities being approved for Education, Health, and Care Plans (EHCP) which placed a statutory duty on the local authority to provide support.

Members were advised that Ashfield Academy provided education and support to children and young people and all its pupils had an EHCP. The school capacity was for 160 pupils and there was provision for overnight residential for up to 18 pupils per night for 4 nights a week throughout the term. The overnight residential provision was only available to Ashfield Academy pupils and not the wider Special Education Needs and Disability (SEND) population which amounted to over 1000 pupils across all special schools in Leicester.

Members noted the duty to provide short breaks and respite support for all SEND children and young people and that was currently provided through the council's Disabled Children Service.

Members noted that:

- The provision at Ashfield had been reviewed between January and March 2022 and school staff, pupils, parents had been involved in that.
- The findings showed the residential provision was highly regarded but there was no clear evidence to show the outcomes could not be delivered within the daily school curriculum.
- It was found that none of the children or young people attending Ashfield had a specific requirement documented in their EHCP for this sort of health or social care support which may be considered as educational and training and if so would need to be recorded in section F of the EHCP. Such a requirement would mean that the Local Authority would have to ensure the provision was available, which if needed could be provided through the Disabled Children's Service, who have access to Barnes Heath House children's residential provision.
- Discussions with the school had taken place to explore options for expansion including opening the provision to other SEND children and young people across the City and those with complex health needs, however the school had indicated that was not an option they wanted.
- Meetings with pupils, parents/carers and staff were due to take place and any issue or concerns would be taken into consideration as part of the decision making process.

Regarding the budget implications it was advised that the HNB grant had to be spent specifically in accordance with government rules, at present there was an overspend of £5.5 million per year, and currently there was a firewall between an overspend and the rest of the council's budget however that firewall expired at the end of this financial year, and so steps needed to be taken to cover the overspend and ensure the HNB balanced. Officers confirmed that the City Council along with other authorities in a similar position were required to set out plan's showing how they would bring their high needs block to balance in a short time. It was necessary therefore to ensure that specific types of health or social care support were included in EHCP's.

Members were informed that there was no issue about the quality of the provision, or its staffing and it was for the school to decide what they do in terms of staffing, however there was a question as to whether it was appropriate for the local authority to continue to fund the provision from the HNB, particularly when the school's attention had been drawn to other possible funding routes and their point of view was not to pursue those options.

Members were invited to express their views and any submission for the current consultation.

The provision was clearly high value, well thought of and made a difference to the lives of the young people and their carers but the council was in a position where it could no-longer continue to fund it and meet the need for how HNB was funded, and it was suggested that the council should look at how as a council it could fund it.

There was some support for a version of option 2 in the report and suggested that Ashfield should be further encouraged to consider widening its provision. It was felt that widening the provision would be good for them although appreciated they would have to consider costs of residential etc. but on the face of it there appeared to be scope for negotiation or for other council resources to be found to help keep the provision in place.

As regards the suggestion to provide funding from the general fund it was important to note that the general fund was also under very severe pressure too and would also require savings to be made.

Assistant City Mayor Councillor Cutkelvin (Education and Housing) referred to the way in which the HNB grant had been divided up over time from previous decision making processes but because of increased demand and pressure on that budget the service were systematically going through spending decisions to check it was fitting of the HNB and to have focus on the purpose of the funding.

The Strategic Director of Social Care and Education explained that the review was not just about the provision at Ashfield Academy, other areas had been examined to identify whether they should be funded through the HNB grant this included health and NHS activity so various conversations had occurred in consideration of the budget pressures.

Members noted that Ashfield had been asked to consider supporting children with health needs who did not attend the school and health colleagues were also looking for such placements which they would have funded but Ashfield had decided they did not want to include children who don't attend the school.

In terms of residential provision generally for SEND children across the city there was a respite provision available which was provided for by another division (Disabled Children's Service) funded from the council's general fund. However, there was high demand for that service so there was scope for Ashfield to consider expanding their offer and receive alternative funding.

Members acknowledged the need for respite in the city for other children but also felt that Ashfield had a specialism, and some felt it would be a challenge to integrate a child from outside the school, accommodate their families and cater to their needs.

Members were regretful about the situation and recognised that it involved individual children who were used to having this provision. It was argued that the provision was educational, that skills for independent living were educational and especially so for those with a profound disability. Development of social skills was also important and so this provision should be considered as educational and offering that facility within a special environment with staff that know how to support the children and with the insight of what to do.

Members noted that Ashfield had developed their residential provision as part of a historic response to need and it was open to all children who attended the school regardless of whether it was a “need” within their own EHCP, however the issue remained that it was a very costly provision and there was a necessity to reduce costs.

The Principal Education Officer advised that in terms of education funding from HNB there had to be specific educational need laid out in the individuals EHCP, independent living skills may be included in that but that was not included as a residential aspect and independent skills could be explored during the school day and did not have to be done outside the ordinary school day. Other children across the city were not in extra residential provision and were being taught independent skills during the school day.

It was suggested that the report published for this meeting would have been helpful to other interested parties in terms of responding to the consultation. It was advised that this report had been circulated to the school, and officers had been open and transparent about the intention and reasons for reviewing the funding. Meetings were scheduled with the school for the end of November 2022 as a further opportunity to hear and take questions from people to feed into the consultation. Members noted that as an academy the council did not have any direct control over the school and had to go through its Senior Leadership Team who it was hoped would share the details of discussions with the wider school staff, parents etc. It was noted that Ashfield had been spoken with as early as December 2021 in terms of the proposition to expand the residential provision, and there had also been ongoing discussion with the teaching union about further exploring funding options, business models and ways of sustaining the provision and that was something that officers would still seek to do.

Officers advised it was possible to extend the consultation, which was still to run for a full 2 months in any event, to take account of the report publication if so wished.

The Chair invited the 2 members of public to address the committee.

The father of a former pupil at Ashfield addressed the commission and gave an insight into his experience and his view of the benefits of the residential provision and the impact upon his son's progress and development of independent skills. The father suggested that the effects of losing this provision would be wide spread and would impact on the system more if young people could not learn to do basic skills and therefore required more support as adults.

Mr Tom Barker, Teaching Assistant at Ashfield Academy addressed the committee and referred to the questions he had sent earlier in the day. He remarked on the comments of officers that HNB funding could only be provided for those with a certain need and expressed concern about the motives of the consultation. Clarification was sought on the consultation proposals and queried why an assessment of the residential provision was conducted if the EHCP contained the information needed.

The Strategic Director Social Care and Education thanked Mr Tom Barker for his questions and referred to constitutional advice previously given and informed a written response to those questions would be provided outside of this meeting.

Regarding the comments made by the father of a previous pupil it was advised that there was no dispute about the quality of the residential provision, and it was worthy of note that other respite provisions throughout the city were also rated outstanding. Officers were proud that the city offered outstanding residential/respite provision, however, the position was that the HNB was ringfenced money and the council had a duty to look at every line of its budget and the savings that had to be made to ensure the HNB balanced.

In relation to the point made about EHCP content, those were written by professional's, and it was their duty to ensure they put what the child needed, and the council would find funding for that need and by law the council was required to deliver that support. The key element here was that none of the children at Ashfield had that provision written into the educational part of the EHCP as explained earlier.

There was continued discussion about the content of EHCP's and the advice within those being provided by professionals. It was stated that in broad terms education was about learning, it was also holistic and appreciated there was a need for self-care, but the issue was also about the High Needs Block funding educational and that was driven by the contents of section F of these plans, and it was officers belief those contents could be delivered within the school day.

The Chair noted that the school held in reserve nearly £4 million and enquired if there were any observations about that. It was confirmed the school did hold that level of reserves, but they had not expressed any view as to what that was reserved for or whether it might be used toward the respite/residential provision.

Regarding any impact on children if funding of the provision was withdrawn, it was suggested social/life skills support could be given during the school day, and those that needed respite provisions could be referred through the disabled children's service who dealt with access to respite provision at a Leicester city council owned and run facility.

Deputy City Mayor Russell, (Social Care and Anti-Poverty) commented on the importance of respite care, as well as the importance of access to that for all children in the city. It was noted there needed to be parity of access and it was paramount that there was good respite care. The council's own respite provision was very good, rated outstanding and there was an opportunity and flexibility for Ashfield to explore that as well as considering expanding their offer.

Members discussed the options set out in the report and the implications for the general fund which was also under pressure from increases in other areas. Some members felt there was a case to be argued for funding to continue under an "educational" heading and to be supported through the HNB and there was a consensus that funding in principle should not be stopped. Members also felt it was important that there be further engagement with the school to look at expanding the provision as well as exploring alternative funding sources.

Assistant City Mayor Cutkelvin (Education and Housing) thanked members of the commission for their comments noting that everybody recognised the importance and value of the Ashfield provision and reiterated that there was no intention to see the facility close however, this point had been reached following a long process of engagement and officers would go back to the school again to talk about options.

It was moved and seconded that Members of the Children Young People and Education Commission object to funding in principle being withdrawn from Ashfield Academy and upon being put to the vote was carried unanimously.

It was also moved and seconded that officer's further engage with Ashfield Academy to explore expanding their residential provision to take in other children from across the city and if the school decided to expand their provision the council to assist finding alternative funding sources and provide funding through its general fund or other service funds such as Children's Health, and upon being put to the vote that was carried by a majority.

The Chair thanked officers for the report and drew discussions to a close.

#### AGREED:

1. That the contents of the report be noted,
2. That the public consultation period should be extended to run for a 12 week period from the date on which the report to this meeting was published (17<sup>th</sup> October 2022).
3. That the comments and suggestions of the members of the commission set out above, be fed into the consultation,

4. That the members of the Children Young People and Education Scrutiny Commission object to the withdrawal of funding in principle from Ashfield Academy,
5. That officer's further engage with Ashfield Academy to explore expanding their residential provision to take in other children from across the city and if the school decides to expand their provision the council to assist finding alternative funding sources and provide funding through its general fund or other service funds such as Children's Health.

## **32. VIRTUAL SCHOOL HEADTEACHER REPORT ACADEMIC YEAR 2021/22**

The Strategic Director of Social Care and Education submitted a report summarising the educational outcomes and attainment of Leicester's Looked after Children during the academic year 2021/22

Deputy City Mayor Councillor Russell, Social Care and Anti-Poverty introduced the report referring to the recent celebratory event to recognise looked after children's achievements and providing details of those achievements and the support provided by the Virtual School Team.

It was noted that these Looked after Children, who often faced considerable challenges and trauma, were being given significant additional support by the virtual school to increase their educational performance and achieve positive outcomes.

7.10pm Councillor Khan and Councillor Willmott left the meeting.

Attention was drawn to the notable achievements, enrichment activities, and cultural activities which included involvement with organisations such as the Curve theatre, Frog Arts and Big Mouth forum as well as the work around transitions between primary and secondary schools and provision of opportunities to access learning.

7.15pm Councillor Willmott re-joined the meeting.

Members of the Commission welcomed the report and the provision of data which they felt was very impressive.

Members queried if there were issues with some schools providing the right level of support to Looked After Children (LAC). It was advised that sometimes a child would not have the right level of support as they were in and out of schools due to placements moving but each school had dedicated responsibility for LAC and sometimes, they were just getting to know that child so the challenge in the virtual school team was working with those schools to ensure continuity and there was a significant amount of training with teachers to ensure the same awareness for the child.

Key priorities of the virtual school were noted. Regarding the support given to foster carers and designated teachers it was advised that there was various support in place for foster carers. Educational elements formed part of the



foster care programme and there were regular training opportunities within that programme. As an example, the virtual school offered key stage 1 support such as phonics and was providing that support to the foster carer in the same way a school offered it for parents thereby making sure foster carers had as many tools as possible to support the educational journey of children in their care.

It was advised that foster carers were greatly engaged, and they were present and celebrating with the children at the celebration events. There was also great engagement with kinship carers and carers in children homes too looking after all the children and all of them were keen and supporting the child's educational journey.

Members noted that the virtual school worked with all children who are looked after, from pre-school early years to age 16 and beyond. In terms of post 18 year olds, for some young people the normal time line to pass specific exams etc didn't work and so there was more flexibility to enable a break from formal education with opportunity to go back when they were more settled, and it was about making sure educational options were in place for them to access and having options for them to engage in the world more broadly.

The Chair noted that in broad terms there seemed to be over-representation of white children in the virtual school cohort and queried whether that suggested that BAME children's needs were not being identified or if there were other factors.

Deputy City Mayor Councillor Russell (Social Care and Anti- Poverty) responded that across the whole population of LAC there was a higher population of white children, and that was also reflected across the country with children brought into the care of local authorities disproportionately more likely to be from a white British economically challenged background.

The Director of Early Help agreed there was disproportionality in the figures and there were some hypotheses around that, but various agencies were yet to reach any conclusion as to why that was so. Work was being done to track children from their initial referral to services to the point at which they became looked after and the reasons behind that were found to be different across different authorities, although it had been established that children were not being taken into care because of their background. Assurance was given that although there was disproportion that was not because BAME children's needs were being missed.

The Chair thanked officers for the report.

AGREED:

That the contents of the report be noted.

### **33. SEND PUPIL PLACE PLANNING MODEL 2022**

The Strategic Director submitted a report providing details of the SEND Pupil Place Planning Model 2022

The Assistant City Mayor Cutkelvin for Education introduced the report, advising in terms of service sufficiency that the work done was quite advanced compared to other local authorities and officers had developed a sophisticated model of doing that. The new process looked at SEND projection and the work done was being held up as best practice.

Members welcomed the report, and the ensuing discussion included the following points:

Regarding the data contained within the report showing children's primary needs and the main characteristics of Autism Spectrum Disorder, (ASD) and the categories of need that depended on medical diagnosis it was queried whether that medical diagnosis was evidenced or based upon a parent informing. It was advised that the figures referred to were taken from school census information but for a "confirmed" diagnosis there would need to be seen a medical diagnosis.

It was clarified that the Resource Allocation Panel made decisions about what placements and funding should be made of an Education Health and Care Plan (EHCP).

In terms of discussions with Dept. for Education (DfE) about using this model currently there was no requirement to include a SEND place planning return to the government, however from next year that would become a statutory requirement, so the service was already ahead of that in terms of being able to provide the information. The service had developed this model and it wasn't yet known what the DfE model would be so there may have to be some adjustment although at moment this was the best way for the service to be projecting SEND place need and gave power to look and forecast for the future rather than get to a crisis point and react.

The Strategic Director of Social Care and Education commented that the DfE had clearly indicated that the number of EHCP's in a local authority area and the number children in special schools was a factor when determining the High Needs Block grant therefore the modelling was especially helpful as well as being several steps ahead nationally.

The Chair enquired whether the service was convinced that the SEND forecasting model being imposed from 2023 would improve the results of the model currently in use. In reply it was felt that the current model provided more information than the DfE were likely to be asking for, certainly in the first year and it was probable that both models would be used so that comparisons on accuracy could be made and to identify if there was a better model.

There was concern that paragraphs 5.1.1 and 5.1.2 suggested the block funding deficit would rise to £9.3 million in 2 years and queried whether the government would bridge that gap. Officers replied that if children were identified as having a specific need on their EHCP then the council had a statutory duty to provide for that need, however the Higher Needs Block was ring fenced and meeting that need from within that provision was a challenge

hence the spending review that had taken place as referred to in the earlier discussion and at present there was no indication of further funding from the government.

The Chair thanked officers for the update and indicated that this topic item would remain on the work programme to come back for a progress report in 6 months.

AGREED:

That the contents of the report be noted, and a progress report be brought to a future meeting in 6 months.

#### **34. SEND INSPECTION FRAMEWORK UPDATE**

The Director of SEND and Early Help provided a verbal update on the new Area SEND inspections framework from Ofsted and the Care Quality Commission (CQC)

The Director of SEND and Early Help reminded members that there had been a consultation issued regarding developing a new framework for SEND local areas. It was noted that in the past the city was subject to a SEND local area inspection last in 2018 which resulted in a written statement of action that led to an accelerated progress plan.

It was advised that the Dept. for Education had now issued proposals to change the process, a special meeting was held on 17<sup>th</sup> August to brief on the content included in proposals and the submissions were made by 5<sup>th</sup> September. Members noted that officers had also engaged with health colleagues and other stakeholders to ensure a rounded response.

The Chair thanked officers for the update.

AGREED:

That the update be noted and any further update to be brought to a future committee meeting as appropriate.

#### **35. SEND ACCELERATED PROGRESS PLAN**

The Strategic Director of Social Care and Education provided a verbal update on the SEND Local Area Accelerated Progress Plan which was currently being considered by the Dept. for Education.

It was noted that NHS England had reviewed the submission and indicated they would respond in due course as to whether the team had delivered on their last objective requirement.

AGREED:

That the verbal update be noted and any further developments to be brought to a future meeting.

### **36. SEND GREEN PAPER CONSULTATION RESPONSE**

The Strategic Director of Social Care and Education shared the response from Leicester City Council to the Governments SEND Green Paper Consultation.

The Director of SEND and Early Help introduced the report drawing attention to the response to the consultation green paper on SEND provision and explained that outcomes were still awaited.

It was noted that significant representations had been made from across the country, however with recent changes in the political climate there was some uncertainty about when the matter would move forward or if it would become legislation.

The Chair thanked officers for the update.

AGREED:

That the update be noted and any further progress on the consultation outcomes to be brought to future meeting as appropriate.

### **37. FOSTERING SERVICE ANNUAL REPORT 2021/22 AND STATEMENT OF PURPOSE**

The Strategic Director of Social Care and Education submitted a report providing an overview of the activity and performance of the council's Fostering Service from 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2022.

Members also received the annual statement of purpose setting out the services aims, objectives and configuration and noted that there was an annual requirement to provide this report.

The Chair thanked officers for the report.

AGREED:

That the contents of the report be noted.

### **38. ADOPTION SERVICE ANNUAL REPORT 2021/22 AND STATEMENT OF PURPOSE**

The Strategic Director of Social Care and Education submits a report to provide an overview of the activity and performance of the Family Adoption Links Regional Adoption Agency incorporating Leicester City Adoption Service from 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2022.

Members also received the annual statement of purpose setting out service aims, objectives and configuration.

Members welcomed the report and data although some initial concern was expressed that the marketing and branding in the report at first glance made

children appear as commodities.

Deputy City Mayor Russell acknowledged the concern raised and explained the challenges in engaging more people to become foster carers and adoptees which was why there was marketing and branding.

The Chair commented that the new arrangements seemed to be working well and noted that the year covered by the report was heavily disrupted by Covid and enquired whether there were any concerns about the arrangements or particular cases as a result.

Officers advised that adoption was impacted by Covid however Leicester handled the situation well, continuing with introductions, placements, and innovative ways of introducing to adopters. Some aspects were done virtually which worked well and was something the service learnt from and have continued to include through the process.

As regards individual cases there were ongoing difficulties with court process and getting adoption orders due to court delays however there was no risk in terms of children already looked after or in placements.

It was queried whether there was any comparative data for the new regional adoption agency with other regional local authorities. Members were informed that although it had taken a while to become a regional adoption agency the service had been consistent with the work done around adoptions and throughout all inspection processes the service have been shown to be good bordering on outstanding. Leicester had joined with Lincolnshire and Leicestershire which were both strong on adoption and shared clear aims, wanting to see better outcomes and wanting to source adopters that could take larger sibling groups and older children and the new arrangements would be closely monitored to see how it developed.

The Chair thanked officers for the report.

AGREED:

That the contents of the report be noted.

### **39. WORK PROGRAMME**

Members of the Commission were invited to consider the content of the work programme and any suggestions for inclusion to be brought to future meetings.

AGREED:

That the contents of the Work Programme be noted.

### **40. ANY OTHER BUSINESS**

There being no other business, the meeting closed at 19-55

