

Consultation on Tier4 CAMHS Hospital Independent Education Policy

Representations as received

Following a video conference call on Friday 3rd July 2020, 10-11:30am.

Attendees: Bryn Roberts, Inclusion Service Manager SCC; Elliot Nolan, Inclusion Officer for Pupils with Medical Needs SCC; Adel Shirbini, Head teacher Ellern Mede.

The questions/representations, as requested, were received as below in advance of the meeting (black text) with responses as per video conference (blue text).

There were no further representations from any parties received and no further response following the video conference with Mr Shirbini.

The amendments made within the policy following the video conference, have been highlighted at the end of the documented representations and response.

From: Adel Shirbini

Sent: 02 July 2020 15:54

To: Nolan, Elliot

Questions

1. What are the barriers to learning in A CAHMS Tier 4 hospital school? How would you cope with having teachers in place and then the children being too unwell to attend? How does this impact funding. Does your policy, and underlying processes, accommodate this? Do you take funding away from mainstream schools when children are absent with medical or mental health needs.
 - o Barriers to learning and the process of overcoming them is the responsibility of the hospital school with input from the clinical team to guide and inform, certainly with respect to amount of time a pupil can access. Current LA guidance is that non-attendance will not be remunerated except under certain conditions. Reduced timetable proformas to clinically support a reduced timetable should be completed, as per any mainstream school within the city, and forwarded to Southampton City Council. Partial attendance for a session or day, will be remunerated as a full day. Unsupported non-attendance for a complete day may not be remunerated.
2. Many Tier 4 young people are not well enough to take their GCSEs in their Year 11 for obvious reasons? Does your policy take into account these young people who are classified as disabled due to mental illness and have not taken their GCSEs? Is it not discriminatory to not let Post-16 learners either carry on with their GCSEs the year after, or to let young people in the middle of their A Levels drop their studies due to refusal to fund by their local authority?
 - o The policy does not affect any rights or ability to access education or indeed to take their exams or not. Should a child or young person be deemed unfit to sit their exams, the process would be comparable as if they were resident in the community. Through consultation with the home school and through informed decisions made by clinicians, it may be necessary to delay the taking of exams. The policy will not affect this decision. National guidance would support the taking of exams where appropriate and in the best interests of the child or young person.
3. Most local authorities understand Questions 1 and 2 and fund for Post 16. If Southampton do not fund Post 16, is it right that Southampton City Post 16 learner should be asked to stay in their bedroom on the ward whilst other local authorities' young people, who do fund Post 16, can come to school? What does this do for a child's mental health when they are excluded and asked to remain in the bedrooms as they do not receive funding.
 - o There is no, nor will there be, a blanket policy for refusal of funding. That would be against national guidance and legislation. The policy states that Post 16 education funding **may** be refused and provides a framework to provide transparency of provision and the ability for LA support or challenge of provision. The LA's aim is that any decision *shouldn't unnecessarily disrupt a child or young person's education*¹.

¹ High Needs Funding: Operational Guide 2018 to 2019

4. Have you taken into account the School funding document which states that Post-16 learners should be treated the same way as Pre-16 learners.
 - It would be more accurate to respond knowing which document has been referenced. However, national guidance states that, *Although we allocate funding to local authorities for hospital education without reference to the age of the young people receiving the education, local authorities' duties differ for young people aged 16 and over. This may affect their decisions on funding education for young people in this age group, such as those in independent hospital schools*². Again, the aim is that education is not unnecessarily disrupted.
 - As per the Education Act 1996 Section 437, a local authority's **statutory** responsibility is to ensure all pupils of **compulsory school age** receive a suitable education. In the case of pupils with medical needs accessing education, there should be no blanket policies. Tier 4 Education Providers should not assume that the school or LA will pay without prior notification and agreement of the costs and education to be delivered. The policy document provides the necessary framework for the LA to discharge its responsibilities.
5. We have a centre in Moorgate Rotherham which is cheaper to run in terms of staffing. However, an agency charges £190 per day plus VAT. Which is even higher in London. Add this cost per day onto the cost for a head, finance officer, heating, insurance, ICT, Exams officer, Inclusion and Safeguarding Lead. If you pay for attendance only, who pays for the other costs.
 - We can find nothing in legislation or national guidance that supports the claim that LAs are to meet the overhead costs of any provider, only that we have a responsibility to cover the education costs once agreement has been clarified between the LA and independent provider. As such, I have sought clarification from the DfE regarding this exceptionally grey area.
6. Young people arrive in Tier 4 after a fractured educational experience. The home school, private or mainstream, may have not had the time (speed of decline) to get an EHCP in place. The normal distribution for admission peak is between 16-18. We can assume Southampton will not fund.
 - Unsure as to the question, however, believe this was covered in the video conference. The responsibility for completion of an Education, Health and Care Plan Needs Assessment application lies with the **home school**. Contact, consultation and joint working should facilitate the completion of these applications especially, as you have mentioned, in such cases as an SEMH or SEND need has not arisen prior to admission. The administration cost for completion of a Needs Assessment application is not a funding responsibility of the LA as we deal with completed applications that are forwarded to the SCC SEND Team, but we will endeavour to offer any support that is appropriate. Application for funding in relation to education costs is covered fully in the policy document.
7. In your NHS CAMHS Tier 4 hospital are Post 16 learners debarred from entry into the hospital school? If not you are disadvantaging Post 16 learners in independent hospitals
 - There is no NHS CAMHS Tier 4 hospital in Southampton for pre or post 16 learners. Our perspective on this particular area would be that no learner should be 'barred' from entry into a hospital school whether that be NHS CAMHS Hospital School or Independent Tier 4 Hospital School. Non-attendance within a hospital school, as per the policy document, should be clinically led and supported by reduced timetable documentation. This is supported through the Education Act 1996 Section 437 stating, *it is the Local Authority's (LA) statutory responsibility to ensure all pupils of compulsory school age receive a suitable education (or education on a part-time basis as the LA considers to be in the pupil's best interests)*.
8. If you are funding by attendance only, with evidence of attendance, your daily cost will be twice as much as the current charge, as schools need to pay for underlying costs regardless of attendance
 - This was discussed during the video conference but also touches on the above response to #5. There are no official contracted financial arrangements, commissioned through NHS, with local authorities for the funding of this exceptionally vulnerable group of children and young people. The implication of point #8, is that education costs will be elevated to cover administration and overhead costs for independent schools. As I have stated, this has been raised with the DfE for clarification.
9. How is the NEET requirement addressed in your policy. Do you have an officer in place to chase up all NEETS in Tier 4?
 - This is a valid point that we are taking away to address. There currently is no provision within the policy for 'chasing up all NEETS in Tier 4'. While it may not be appropriate to amend the policy

² (As above footnote)

regarding NEETs in Tier 4, it is an area that will require further consideration. Should there be amendments necessary, this will be addressed. We will consult with the relevant parties.

10. The NHS funds admissions to CAMHS Tier 4 up to 18, and Southampton only funding up to 16. Why?

- All local authorities fund education for 0-25yrs through Education, Health and Care Plans (EHCPs) from the High Needs Block. This is subject to ongoing education in line with the SEND Code of Practice. As stated within the policy document, post 16 education within Tier 4 CAMHS Independent provision **outside** of EHCPs will be dealt with on a case by case basis and funding may be conditional or part of a bespoke package. Providers are reminded within the policy document of the DfE's Alternative Provision – Statutory Guidance for local authorities, January 2013 that *Local authorities have a power (not a duty) to arrange education provision, where not already available, for pupils aged 16-18³*.

11. In all your commissioning of schools, is it based on payment by attendance?

- Attendance is a **factor** when decisions are made regarding remuneration for education provision, not the sole contributing aspect. The policy document has been amended to ensure there is clarity that attendance **may** influence funding decisions and offers guidance over the conditions and evidence required regarding the approval of funding. This guidance is transparent and applies to all providers of Independent Tier 4 CAMHS education provision.

12. How are small hospital schools going to re-coup money from home schools for the first 15 days? And the LAs after this? If home schools provide funding from day 1, or provision, half way across the country I will eat my hat.

- The statutory guidance⁴ is clear in this regard, as stated in the policy document.
- Through further consultation, this has surfaced as an issue at ground level in alternate LAs. The strategy moving forward may well include invoicing the LA, who will then take remuneration up with the home school. Theoretically, the home school AND the LA will be aware of the admission and in a position to oversee the transfer of responsibility. Unfortunately, as you raised in our conference (and from our experience), admissions do not follow a comparable path. We have experience of inpatient stays of less than a week, to a number of years.

The way your policy is written is not from the view of reality.

- I believe this was addressed during our conference call. Unfortunately, the reality of the situation is that this is indeed a necessary policy for local authorities. Southampton City Council is not alone in implementing such a policy and we have been careful to ensure that relevant legislation and guidance has informed its content. The policy document content has been (and will again be) overseen and checked by legal teams to ensure we can discharge our responsibilities in a fair and effective manner. There will also be a clear and transparent review process which will inform any amendments should that be required.
- As discussed in our conference call, there is a significant disparity nationally in the quality of not only evidence associated with admissions, but in the provision of education and quality of CPAs (Care Planning Meetings). We have been sure to share the draft policy with our NHS, CAMHS and Clinical Commissioning Group colleagues to support a more rounded consultation.
- During the video conference, it was suggested that the LA should accept an Ofsted grading as all of the evidence required to support funding. We would strongly disagree. It would be unrealistic and remiss of the LA to accept such 'evidence'. The expectation on evidence supplied to support funding is transparent and applicable to all providers. This provides the LA an opportunity to make objective, not subjective decisions based upon impartiality and equality across a broad range of service providers.

Adel

³ Section 19(4) of the Education Act 1996

⁴Ensuring a good Education for Children who Cannot Attend School because of Health Needs January 2013 Section 14

Amendments made to the policy following the video conference, representations and response

- (Page 4)
 - 5. The DfE's Alternative Provision – Statutory guidance for local authorities January 2013 states that:
“Local authorities have a power (not a duty) to arrange education provision, where not already available, for pupils aged 16-18 .”
Post 16 admissions to Tier 4 CAMHS Hospital Independent Education providers will be considered on a case by case basis through consultation with the LA. The process for admission will follow as Appendix 1 below and paragraph 1 as above (page 3).
 - This was an addition to existing text to clarify where in statutory guidance post 16 funding is addressed.
- (Page 6)
 - 2. Contact MUST be made with the LA before education begins. Education prior to consultation with the LA (and home school where appropriate) may not be funded.
- (Page 6)
 - 3. The LA may not approve funding for periods or sessions where a pupil is absent from education.
 - The wording was amended in both these places from 'Will not' to 'May not' as decisions are not blanket decisions but made on a case by case basis.
- (Page 7)
 - Alternative Provision – Statutory guidance for local authorities January 2013
Ensuring a Good Education for Children who Cannot Attend School because of Health Needs January 2013
 - These were added as references to clarify within the 'Relevant Legislation and Guidance'.

The changes/amendments as above were minor, but nonetheless relevant and served to clarify and focus the direction of the policy.