

Report to:	Cabinet	Date of Meeting:	27 th July 2023
Subject:	Determination of Proposal to Establish SEND Resource Provision at Holy Family Catholic High School, Formby High School, Thomas Gray Primary School, Bishop David Sheppard CE Primary School		
Report of:	Executive Director for Children's Social Care and Education	Wards Affected:	All
Cabinet Portfolio:	Education		
Is this a Key Decision:	Yes	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

The purpose of the report is to seek a determination on the proposal to establish SEND Resourced Provision.

Recommendation(s):

That:

- (1) The Cabinet is requested to approve the proposal as detailed in the statutory notice to establish the four SEND Resourced Provisions with effect from 1 September 2023.
- (2) It be noted that the proposal was a Key Decision but had not been included in the Council's Forward Plan of Key Decisions. Consequently, the Leader of the Council and the Chair of the Overview and Scrutiny Committee (Children's Services and Safeguarding) had been consulted under Rule 27 of the Access to Information Procedure Rules of the Constitution, to the decision being made by Cabinet) as a matter of urgency on the basis that it was impracticable to defer the decision until the commencement of the next Forward Plan because if we defer consideration of the matter to comply with the Forward Plan timetable, then we will not be able to meet the implementation date.

Reasons for the Recommendation(s):

The local authority has the power to consider all options including expanding a school following the statutory process detailed in the report.

The proposal will build on the good standards for teaching and learning already in place at the schools. The development will provide places for children and young people with SEND within the Resourced Provision. All four schools are judged by Ofsted to be

providing good quality education.

This development will not have any negative impact on other schools, academies, and educational institutions in the area.

The proposed resource base will not replace existing provision but will supplement and improve provision across the borough.

The addition of the Specialist Resource Base to the school will not have a direct impact on admissions or provision at other schools within the area.

Long-term value for money will be achieved by pupils having their needs met within appropriate mainstream provision with specialist support rather than in special school provision. This will free special school places for pupils with the highest level of needs and provide the opportunity to place high need pupils within the borough, rather than in out of borough provision.

Alternative Options Considered and Rejected: (including any Risk Implications)

Failure to provide sufficient places for children with Special Education Needs and Disability (SEND) in the borough will result in additional costs for the Council through more expensive specialist placements.

What will it cost and how will it be financed?

(A) Revenue Costs

All annual running costs associated with the creation of 124 additional resource unit places are highlighted within the report and will be funded from the High Needs Budget of the Dedicated Schools Grant.

(B) Capital Costs

Any associated capital costs associated with the creation of the SEN Resource provision identified within this report have been included and committed within the approved High Needs capital programme for 2023/24.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):

This will be incorporated into the costings.

Legal Implications:

Section 14 of the Education Act 1996 places a general duty upon a local authority to secure sufficient schools to provide primary and secondary education in their area and they should have regard to securing special education provision.

This proposal has been subject to consultation in accordance with section 19(3) of the Education and Inspections Act 2006 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.

Following the enactment of The Children and Families Act 2014, the Local Authority retains responsibility for commissioning services for children and young people with SEN or a disability.

The Local Authority is required to keep the provision for children and young people with SEN or disabilities under review, including its sufficiency (Section 315 of the Education Act 1996), and to promote wellbeing and improve quality, working in conjunction with parents, children, and providers.

This Act and its associated guidance are clear that, when considering any re-organisation of provision, decision makers must be clear how they are satisfied that the proposed alternative arrangements will lead to improvements in the standard, quality and/or range of educational provision for children with SEN or a disability.

Equality Implications:

See body of report section 8

Impact on Children and Young People: Yes

The proposal will provide additional school places for children with special educational needs and disability (SEND) and ensure that pupils will not have to travel to other areas to attend school.

Climate Emergency Implications:

All areas of SEND Sufficiency, pupil place planning and educational placements have a direct environmental impact, consideration of this element is informed in provision development and provision enhancement in the Borough due to the direct impact this will have to limiting students travelling outside the Borough. This would support reduced emissions of CO2.

The recommendations within this report will

Have a positive impact	Yes
Have a neutral impact	No
Have a negative impact	No
The Author has undertaken the Climate Emergency training for report authors	Yes

Contribution to the Council's Core Purpose:

Protect the most vulnerable:

The proposal will provide additional school places for children with special educational needs and disability (SEND) and ensure that pupils will not have to travel to other areas to attend school.

Facilitate confident and resilient communities:

Commission, broker and provide core services:

The proposal will provide additional places for children with special educational needs and disability (SEND) to access education in the local area in a mainstream school.

Place – leadership and influencer: N/A

Drivers of change and reform: N/A

Facilitate sustainable economic prosperity: N/A
Greater income for social investment: N/A
Cleaner Greener: N/A

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.7285/23.....) and the Chief Legal and Democratic Officer (LD.5485/23....) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Consultation has been conducted with parents, governors, and staff at the schools. Consultation has been conducted with Headteachers parents, governors, and staff at the schools. As part of consulting with the wider school community the proposals were published on the schools website

Notices were published on Sefton Council website in accordance with current legislation, on 23 May 2023 and this was followed immediately by a four-week representation period which ended on 19th June 2023.

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

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Appendices:

The following appendix is attached to this report:

Appendix A - Public Notices and Proposal for the Establishing SEND Resource Bases.

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

- 1.1 The Children and Families Act 2014 sets out a statutory duty for local authorities to keep provision for children and young people with special educational needs and disabilities (SEND) under review, in order to ensure that the provision reflects and addresses local needs.
- 1.2 The number of children and young people with an EHCP in Sefton has increased significantly. The most common category of need within this group of pupils are

those with social communication and interaction difficulties including Autism, as well as cognition and learning/social emotional and mental health.

- 1.3 The Council has thus embarked on a programme of SEND transformation, one of the key objectives is to reduce the number of out of borough placements by expanding in borough specialist provision, targeted at the right areas of need.
- 1.4 Approval was given by Cabinet Members for Education on 15 May 2023 to the publication of a statutory public notice to establish SEND Resource Provision at Holy Family Catholic High School, Formby High School, Thomas Gray Primary School, and Bishop David Sheppard CE Primary School.
- 1.5 The Resourced Provision will offer the increasing number of pupils displaying social communication and interaction difficulties or cognition and learning difficulties the benefit from attending a mainstream school, whilst also receiving specialist input relevant to the child's special educational needs and disabilities (SEND)
- 1.6 The Resourced Provision will be part of the school, operationally led and managed by the school.
- 1.7 All pupils accessing All pupils accessing a Resourced Provision place will be on roll of the school and have access to both mainstream provision and the resourced Provision, dependent on their individual needs.
- 1.8 The Published Admission Number (PAN) of the school will not increase. The admission of children to the mainstream school will continue be managed by the local authority's Admissions Team. There are no changes to the admission arrangements as part of this proposal.
- 1.9 The places available in the Resourced Provision will be in addition to the schools Published Admission Number and will be placed in the RP by virtue of being named in the child's education, health, and care plan.
- 1.10 The Resourced Provision will offer an inclusive provision for pupils who require arrangements over and above that which a mainstream school can provide through an EHCP.
- 1.11 The decision to place a pupil or young person at the Provision shall be made by the Local Authority's SEN and Inclusion Service All admissions will be determined by the Local Authority in accordance with the SEN and Disability Code of Practice.
- 1.12 The Local Authority will remain responsible for holding an overview of pupils placed at the Resourced Provision.

2. PROPOSALS

HOLY FAMILY CATHOLIC HIGH SCHOOL

Establishment of a SEN unit for children with an Education, Health and Care Plan (EHCP) with a primary SEN need of cognition and learning difficulties with a class of 6 places in each year group of years 7, 8, 9, 10 and 11.

FORMBY HIGH SCHOOL (Academy)

Establishment of a SEN unit for children with an Education, Health, and Care Plan (EHCP) with a primary SEN need of cognition and learning difficulties with a class of 8 places in each year group of years 7, 8, 9, 10 and 11.

BISHOP DAVID SHEPPARD PRIMARY SCHOOL

Establishment of a SEN unit for children with an Education, Health and Care Plan (EHCP) with a primary SEN need of social communication and interaction difficulties who have been accepted onto the Autism referral pathway with 1 class of 8 places across Reception and Key Stage 1 and a further class of 8 places across Key Stage 2.

THOMAS GRAY PRIMARY SCHOOL

Establishment of a SEN unit for children with an Education, Health and Care Plan (EHCP) with a primary SEN need of communication and interaction and/or social communication with 1 class of 10 places across Key stage 1. Also, a unit for children with an Education, Health and Care Plan (EHCP) with a primary SEN need of cognition and learning and/or social, emotional and mental health needs with 2 classes of 8 places for Key Stage 2. Finally, a 12 places unit for children within Early Years - Reception (4 places), Nursery (8 part time places) and two-year olds (8 part time places) with a primary need of social communication and interaction difficulties including Autism.

3. FINANCIAL IMPLICATIONS

3.1 The table below provides a comparison of the average costs associated with the placement of children in Resource Units / In-house Special Schools and Independent Schools.

		Resource Unit	Special Sch	Ind Sch
School	Places	Avg PI -£12,600	Avg PI - £21,400	Avg PI - £47,900
Holy Family	30	£378,000	£642,000	£1,437,000
Formby High	40	£504,000	£856,000	£1,916,000
BDS	16	£201,600	£342,400	£766,400
Thomas Gray	38	£478,800	£813,200	£1,820,200
Total Cost	124	£1,562,400	£2,653,600	£5,939,600

3.2 The cost mitigation saving to the High Needs Budget through the creation of 124 additional Resource Unit places is at least £1.1m compared to placing children in

Special schools and potentially £4.5m if there was no additional in-house provision and children were placed in independent schools.

4. CURRENT PROVISION

- 4.1 Sefton has several Resource provisions/Sen Units which are located within mainstream schools. These bases provide specialist teaching and support for pupils with specific special educational needs allowing them to be educated in a mainstream setting. All pupils who attend a resource base currently have an Education, Health, and Care Plan (EHCP).

Name	Provision	Places	Criteria
Our Lady of Lourdes Catholic Primary School	SEN Unit for Autism	24 places	Diagnosis of Autism EHCP or under EHC Needs Assessment
Freshfield Primary School	SEN Unit for Autism	20 places	Diagnosis of Autism EHCP or under EHC Needs Assessment
Hudson Primary School	SEN Unit for Autism	36 places	Diagnosis of Autism EHCP or under EHC Needs Assessment
Waterloo Primary School	SEN Unit for Autism	30 places – increasing to 38 Sept 23	Diagnosis of Autism EHCP or under EHC Needs Assessment
The Pines based at Redgate Primary School	SEN Unit for complex needs	47 places	Identified complex needs EHCP or under EHC Needs Assessment
The Grange Primary School	SEN Unit for Autism	30 places	Diagnosis of Autism EHCP or under EHC Needs Assessment
The Grange Primary School	SEN Unit for SEMH	8 places	Identified need of SEMH EHCP or under EHC Needs Assessment
The Grange Primary	SEN Unit for Speech, Language	24 places	Identified need of SLCN

School	and communication difficulties (SLCN)		EHCP or under EHC Needs Assessment
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Secondary

Name	Provision	Places	Criteria
Meols Cop High School	Resource provision for Autism	10 places	Diagnosis of Autism EHCP or under EHC Needs Assessment
Meols Cop High School	Resource provision for SpLD	12 places	Identified needs around SpLD EHCP or under EHC Needs Assessment
St Michaels Church of England High School	Resource provision for Autism	10 places	Diagnosis of Autism EHCP or under EHC Needs Assessment
St Michaels Church of England High School	Resource provision for Cognition and Learning	21 places	Identified needs around Cognition and Learning EHCP or under EHC Needs Assessment

5. Statutory Process to expand the school.

The Council is also required to follow a statutory process including publication of a statutory notice and formal consultation period to enlarge the premises of a school as set out in the Department for Education guidance as this is classed as a 'prescribed alteration' to the school. Cabinet is the decision-maker for such proposals. The decision on whether to proceed must be made within two months of the end of the formal consultation period. The guidance also states that a proposal cannot be approved conditionally upon funding being made available so the funding would need to be in place prior to this decision being made.

The statutory process is shown in the table below:

Stage	Description	Timescale	Comments
Stage 1	Publication (statutory proposal/notice)		Must be published and on the Sefton website
Stage 2	Representation (formal consultation)	Must be 4 weeks from date of publication	As set out in 'Prescribed Alterations' regulations
Stage 3	Decision (by Cabinet)	LA should decide proposal within two months	Any appeal to the adjudicator must be made within 4

		otherwise it will fall to the Schools Adjudicator	weeks of the decision
Stage 4	Implementation	No prescribed timescale	It must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker

- 5.1. There are different arrangements in place for Academy Trusts wishing to make a significant change. The Department for Education (DfE) has produced guidance “Making significant changes to an open academy and closure by mutual agreement” which sets out the process that Academy Trusts must follow when proposing to make significant changes. Proposals to establish SEND provision requires the submission of a business case to the DfE. Whilst the LA must be consulted, decisions on academy proposals will be made by the DfE. Formby High School is an academy and has undertaken a full consultation in partnership with the Local Authority. The school have submitted a business case to the DfE.
- 5.2. Upon publication of a statutory notice setting out the proposal, representations can be made to the LA by any person within a four-week period.
- 5.3. The statutory guidance states that the LA as decision-maker will need to be satisfied that the appropriate, fair and open consultation has been carried out, and that the proposer has given full consideration to all the responses received.
- 5.4. The decision-maker must consider the views of those affected by a proposal or who have an interest in it and should not simply take account of the numbers of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most directly affected by a proposal especially parents of children at the affected school.

6. Response to the proposal

- 6.1 Sefton Council did not receive any responses their published consultation from any consultations by schools.

7. The Decision-Making Process

- 7.1 Cabinet is the Decision Maker for the proposal which must be determined by the Local Authority. The Decision Maker must consider the four key issues below before judging the respective factors and merits of the proposal.

- **Is any information missing?** All necessary information is included in this report and the statutory process in making prescribed alterations has been followed.
- **Does the published notice comply with statutory requirements?** The published notices have been compiled in accordance with the statutory guidelines and advice from the DfE on the wording to be used. An example is attached at Annex A. Formby High School have complied with the statutory requirements for academies.
- **Has the consultation been carried out prior to the publication of the notice?** The consultation process was reported to the Cabinet Member for Education on 15 May 2023
- **Are the proposals “related” to other published proposals?** The proposals are not related to any other published proposals.

8. Equality Implications

8.1 The Equality Act 2010 says public authorities must comply with the public sector equality duty. In carrying out their functions, they need to have due regard to the need to achieve the objectives set out under s149 of the Equality Act 2010 to:

- Eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by or under this Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The protected characteristics are:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion and Belief
- Sex
- Sexual Orientation

8.2 In Sefton, a motion was approved by Council, at its meeting on 19th January 2023 to include Care Experience, as a protected characteristic. This decision is recognised in the Equality, Diversity and Inclusion Strategy.

8.3 Young people are a protected characteristic by age, but they may also have other protected characteristics too, for example they may also have a disability or are care experienced.

- 8.4 According to the Census 2021 there are 71, 404 children and young people aged 0 – 24. In Sefton there are also currently over 600 cared for children and over 2500 children and young people who have an Education, Health, and Care plan.
- 8.5 This proposal will positively impact on the number of school places for children of preschool age and thereby increasing opportunities for parental choice, in line with DfE guidance. In addition, the school has a SEND Provision which will enable the pre-school provision to access expert advice and support in the early identification of special educational needs.
- 8.6 This proposal seeks to establish SEN provision in a mainstream school to ensure that it best delivers for the current cohort of children within the borough, and therefore ensures that we are taking due regard for their needs.
- 8.7 Wherever possible the needs of a young person should be addressed within their local community at a local mainstream setting. Children experiencing additional (special educational) needs benefit from opportunities to be educated alongside their peers, fostering peer acceptance and positive self-image and enabling them to develop local friendships.

Appendix A

Statutory Proposal for Prescribed Alterations to Provide Special Educational Needs Provision in a Mainstream School

1. Proposal relating to:

Bishop David Sheppard CE Primary School, Devonshire Road, Southport, PR9 7BZ

Proposer: Sefton Metropolitan Borough Council, Magdalen House, 30 Trinity Road, Bootle, Liverpool, L20 3NJ

Notice is given in accordance with section 19(1) of the Education and Inspections Act 2006 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013/3110 that Sefton Council intend to make a prescribed alteration to Bishop David Sheppard CE Primary School from 1 September 2023.

2. Description of Proposed Significant Change

The proposed significant change at Bishop David Sheppard CE Primary School will be the establishment of a SEN unit for children with an Education, Health and Care Plan (EHCP) with a primary SEN need of social communication and interaction difficulties who have been accepted onto the Autism referral pathway with 1 class of 8 places across Reception and Key Stage 1 and a further class of 8 places across Key Stage 2.

3. Evidence of Demand for Places

The number of children and young people with an EHCP in Sefton has increased significantly. The most common category of need within this group of pupils are those with social communication and interaction difficulties including Autism.

The SEN Unit will offer the increasing number of pupils displaying social communication and interaction difficulties the benefit from attending a mainstream school, whilst also receiving specialist input for social communication and interaction difficulties relevant to the child's SEN needs.

4. Objectives of the Proposal and Educational Standards, and Impact on Parental Choice

The additional places will be in addition to and not part of the schools existing Pupil Admission Numbers (PAN).

Admission to the SEN Unit will be made via Sefton Councils SEN and Inclusion Service. Sefton Council proposes to refurbish and make internal alterations to an existing classroom and build an extension to create a second classroom to enable the appropriate space to be created.

The proposed provision will be appropriately resourced to ensure that the children placed will be supported in achieving their educational outcomes.

The proposed Resource Base will allow the Council and parents/carers the option to place children within local provision, rather than in independent provision.

5. Effect on other Education Establishments in the Area

There will not be any effect on other educational establishments in the area

6. Project Costs

If the proposal for this provision is agreed, funding for the additional accommodation will be provided directly through Department for Education High Needs Provision Capital Allocation.

7. Implementation and any proposed stages for implementation

It is intended that any new provision will be implemented during the 2023/24 Academic Year.

8. Procedure for Responding to this Proposal

This Notice is an extract from the complete proposal. Copies of the complete proposal can be obtained from: School.Organisation@sefton.gov.uk

Any person wishing to raise objections, or make comments on the proposal should do so by emailing School Organisation at: School.Organisation@sefton.gov.uk within four weeks from the date of publication, i.e. no later than 4pm on 19 June 2023

Applicable legislation:

[Making significant changes \('prescribed alterations'\) to maintained school \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Signed: Tricia Davies, Assistant Director Education

Publication Date: 23 May 2023

Statutory Proposal for Prescribed Alterations to Provide Special Educational Needs Provision in a Mainstream School

1. Proposal relating to:

Holy Family Catholic High School, Virgins Lane, Thornton, Merseyside, L23 4UL

Proposer: Sefton Metropolitan Borough Council, Magdalen House, 30 Trinity Road, Bootle, Liverpool, L20 3NJ

Notice is given in accordance with section 19(1) of the Education and Inspections Act 2006 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013/3110 that Sefton Council intend to make a prescribed alteration to Holy Family Catholic High School from 1st September 2023.

2. Description of Proposed Significant Change

The proposed significant change at Holy Family Catholic High School will be the establishment of a SEN unit for children with an Education, Health and Care Plan (EHCP) with a primary SEN need of cognition and learning difficulties with a class of 6 places in each year group of years 7, 8, 9, 10 and 11. (Please be advised this does not include year 12 or 13)

3. Evidence of Demand for Places

The number of children and young people with an EHCP in Sefton has increased significantly. The most common category of need within this group of pupils are those with cognition and learning difficulties.

The SEN Unit will offer the increasing number of pupils displaying cognition and learning difficulties the benefit from attending a mainstream school, whilst also receiving specialist input for their learning difficulties relevant to the child's SEN needs.

4. Objectives of the Proposal and Educational Standards, and Impact on Parental Choice

The additional places will be in addition to and not part of the schools existing Pupil Admission Numbers (PAN).

Admission to the SEN Unit will be made via Sefton Councils SEN and Inclusion Service. Sefton Council proposes to carry out internal alterations to existing classrooms and to install a 2-storey mobile unit to create the required appropriate space to enable to delivery of the provision.

The proposed provision will be appropriately resourced to ensure that the children placed will be supported in achieving their educational outcomes.

The proposed Resource Bases will allow the Council and parents/carers the option to place children within local provision, rather than in independent provision.

5. Effect on other Education Establishments in the Area

There will not be any effect on other educational establishments in the area.

6. Project Costs

If the proposal for this provision is agreed, funding for the additional accommodation will be provided directly through Department for Education High Needs Provision Capital Allocation.

7. Implementation and any proposed stages for implementation

It is intended that any new provision will be implemented during the 2023/24 Academic Year.

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Signed: Tricia Davies, Assistant Director Education

Publication Date: 23 May 2023

1. Proposal relating to:

Thomas Gray Primary School, Chestnut Grove, Bootle, Merseyside, L20 4LX

Proposer: Sefton Metropolitan Borough Council, Magdalen House, 30 Trinity Road, Bootle, Liverpool, L20 3NJ

Notice is given in accordance with section 19(1) of the Education and Inspections Act 2006 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013/3110 that Sefton Council intend to make a prescribed alteration to Thomas Gray Primary School from 1st September 2023.

2. Description of Proposed Significant Change

The proposed significant change at Thomas Gray Primary School will be the establishment of a SEN unit for children with an Education, Health and Care Plan (EHCP) with a primary SEN need of communication and interaction and/or social communication with 1 class of 10 places across Key stage 1. Also, a unit for children with an Education, Health and Care Plan (EHCP) with a primary SEN need of cognition and learning and/or social, emotional and mental health needs with 2 classes of 8 places for Key Stage 2. Finally, a unit for children within Early Years for Reception (4 places), Nursery (8 part time places) and two-year olds (8 part time places) with a primary need of social communication and interaction difficulties including Autism.

3. Evidence of Demand for Places

The number of children and young people with an EHCP in Sefton has increased significantly. The most common category of need within this group of pupils are those with social communication and interaction difficulties including Autism, as well as cognition and learning/social emotional and mental health.

The SEN Unit will offer the increasing number of pupils displaying social communication and interaction difficulties the benefit from attending a mainstream school, whilst also receiving specialist input for social communication and interaction difficulties relevant to the child's SEN needs.

4. Objectives of the Proposal and Educational Standards, and Impact on Parental Choice

The additional places will be in addition to and not part of the schools existing Pupil Admission Numbers (PAN).

Admission to the SEN Unit will be made via Sefton Councils SEN and Inclusion Service. Sefton Council proposes to carry out internal alterations to existing classrooms to enable the appropriate delivery of the Key Stage 1 and 2 groups. A mobile unit will also be installed to create additional space to provide for the Early Years provision.

The proposed provision will be appropriately resourced to ensure that the children placed will be supported in achieving their educational outcomes.

The proposed Resource Bases will allow the Council and parents/carers the option to place children within local provision, rather than in independent provision.

5. Effect on other Education Establishments in the Area

There will not be any effect on other educational establishments in the area.

6. Project Costs

If the proposal for this provision is agreed, funding for the additional accommodation will be provided directly through Department for Education High Needs Provision Capital Allocation.

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