

DECISION-MAKER:	CABINET		
SUBJECT:	TIER 4 CAMHS HOSPITAL INDEPENDENT EDUCATION PROVISION POLICY		
DATE OF DECISION:	18 AUGUST 2020		
REPORT OF:	CABINET MEMBER FOR CHILDREN AND LEARNING		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY	
None	
BRIEF SUMMARY	
<p>This policy covers the protocols and process involved when a child or young person is admitted as an inpatient within Independent Tier 4 Child and Adolescent Mental Health Service (CAMHS) hospitals. As an inpatient, the national expectation is that wherever possible education will continue. This policy outlines the framework and expectations upon independent education providers, that enable Southampton City Council to effectively discharge our statutory duties.</p>	
RECOMMENDATIONS:	
	(i) To approve the Tier 4 CAMHS Hospital Independent Education Provision Policy for the academic year 2020-2021.
	(ii) To authorise the Service Lead for Education to take any action necessary to give effect to the (said) policy and to authorise any changes necessary to (said) policy, where required to give effect to any Acts, Regulations or revisions whenever they arise.
REASONS FOR REPORT RECOMMENDATIONS	
1.	To date, Southampton City Council has no policy regarding this vulnerable set of pupils. This policy will establish a framework and process that the local authority and independent providers can adhere to as and when admissions arise.
2.	Where NHS bed spaces are unavailable, Tier 4 admissions (i.e. If a child or young person is sectioned under the Mental Health Act) are allocated to independent hospitals. In these cases, the statutory responsibility for education of children and young people admitted remains with the 'home' local authority and can be discharged to the hospital school (as attached to the hospital). This policy will provide the protocols for effective discharge of Local Authority responsibilities.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
3.	The only alternative considered and rejected was not to implement the policy document. It has been necessary to challenge providers over the last

	academic year, however, to date there has been no formal document to establish process and procedures. Legal advice was sought from within Southampton City Council which suggested that establishing a policy would be advisable in this case.
DETAIL (Including consultation carried out)	
4.	Following legal advice, a thirty day consultation has taken place. This was initiated on the 26 th June 2020 and ended on the 27 th July 2020, following consultation with the Cabinet Member for Children and Learning the Cabinet Member for Health and Adults and Southampton City Council Service Lead for Education, the Virtual School Head Teacher, Service Manager for Inclusion and Southampton City Council Legal Team.
5.	The consultation involved sending out the draft policy to all Southampton City Head Teachers, the regional NHS placement representative, Solent CAMHS Manager and Assistant Team Manager, Southampton Clinical Commissioning Group Commissioner and a selection of Tier 4 Independent Education providers (taken from a current list supplied by NHS covering possible placement locations for Southampton children and young people). The independent providers also included the providers/settings involved in admissions over the last academic year for Southampton children and young people.
6.	Representation was received from one independent provider only, detail of this representation and subsequent changes to the policy can be found within Appendix 2 . This was responded to through skype video conference which included the Head Teacher, Inclusion Service Manager and the Inclusion Officer for Pupils with Medical Needs. Minor changes were made to the wording of the draft policy to accommodate suggestions, however, no changes were made to the main body or direction of the policy itself.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
7.	No capital implications highlighted.
8.	Only revenue implications to date in relation to the content of the policy have included remuneration or changes to invoicing in favour of the Local Authority.
<u>Property/Other</u>	
9.	No Property or Other implications.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
10.	The High Needs Funding: Operational Guide 2018 to 2019 states that: "Hospital education is defined as education provided at a community special school or foundation special school established in a hospital, or under any arrangements made by the local authority under section 19 of the Education Act 1996 (exceptional provision of education), where the child is being provided with such education by reason of a decision made by a medical practitioner. 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.

	<p>This may affect their decisions on funding education for young people in this age group, such as those in independent hospital schools.”</p> <p>“Local authorities’ duties may require them to commission hospital education from other independent providers, not in receipt of funding directly from ESFA.”</p> <p>“In these circumstances local authorities would be expected to pay the costs of this education from their high needs budgets. The law may not require local authorities to commission a particular education provider in order to discharge their duties, though decisions about education provision shouldn’t unnecessarily disrupt a child or young person’s education or treatment. Independent hospital education provision may be funded either as a single service by the local authority in whose area the provision is located, or on the basis of payments for individuals from those authorities in whose area the child or young person normally resides. In both cases the provider should confirm with the relevant local authority that they are content to commission and fund the education provision. If funding is provided as payments for individual children and young people, the provider should receive such confirmation from the local authority, if possible in writing, before providing education to the child or young person, and certainly before requesting any funding.”</p>
11.	<p>Under the Education Act 1996 Section 437 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) for pupils of compulsory school age who, because of illness, would otherwise not receive suitable education. Unless the child:</p> <ul style="list-style-type: none"> • Ceases to be of compulsory school age within the next six weeks, and • Does not have any relevant examinations to complete
12.	<p>Section 19 of the Education Act 1996 places responsibility on the LA for pupils with Special Educational Needs (SEN) and special educational provision is made for them at a post-16 institution; the LA must pay the fees for the education and training received if the institution is named in the Education, Health and Care Plan (EHCP). If there is no EHCP and the LA is satisfied the pupil requires special educational provision and it is appropriate for them to receive it at the institution then the LA must pay any fees in respect of the special educational provision at the institution which is required to meet the SEN of the pupil.</p>
13.	<p>The NHS Tier 4 CAMHS contract with the hospitals states that:</p> <p>“All day/in-patient services will provide educational sessions during normal academic term. Education should be an integral part of the service provision. The Provider educational provision should be The Office for Standards in Education (OFSTED) registered and meet necessary curriculum and education standards. The cost of the educational provision will be recharged directly by the Provider to the patients home Local Authority. The cost will not be included within the cost charged to the NHS.”</p>
14.	<p>The DfE’s Alternative Provision – Statutory guidance for local authorities January 2013 states that:</p> <p>“Local authorities have a power (not a duty) to arrange education provision, where not already available, for pupils aged 16-18 .”</p>

15.	<p>The DfE's statutory guidance, Ensuring a good Education for Children who Cannot Attend School because of Health Needs January 2013 Section 14 states that:</p> <p>"The law does not specify the point during a child's illness when it becomes the LA's responsibility to secure for the child suitable full-time education. Schools would usually provide support to children who are absent from school because of illness for a shorter period, for example when experiencing chicken pox or influenza. In some cases, where a child is hospitalised, the hospital may provide education for the child within the hospital and the LA would not need to arrange any additional education, provided it is satisfied that the child is receiving suitable education. More generally, LAs should be ready to take responsibility for any child whose illness will prevent them from attending school for 15 or more school days, either in one absence or over the course of a school year, and where suitable education is not otherwise being arranged."</p>
16.	<p>The statutory guidance for local authorities, Ensuring a Good Education for Children who Cannot Attend School because of Health Needs January 2013 states that:</p> <p>"When a child is in hospital, liaison between hospital teaching staff, the LA's alternative provision/home tuition service and the child's school can ensure continuity of provision and consistency of curriculum."</p>
<u>Other Legal Implications:</u>	
17.	No Other Legal implications highlighted to date.
RISK MANAGEMENT IMPLICATIONS	
18.	The development and implementation of this policy reflects the council's statutory duty and manages the risk in terms of legal challenge.
POLICY FRAMEWORK IMPLICATIONS	
19.	The proposed policy enhances the Local Authority's current position while taking into account the Council's Children and Young People Strategy 2017-2020 and Education Strategy 2017-2020.

KEY DECISION?	Yes
WARDS/COMMUNITIES AFFECTED:	ALL
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	DRAFT Tier 4 CAMHS Hospital Independent Education Provision Policy 2020
2.	Consultation on Tier4 CAMHS Hospital Independent Education Policy_Representations
3.	ESIA Assessment

Documents In Members' Rooms

1.	Not applicable
2.	

Equality Impact Assessment		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		Yes
Data Protection Impact Assessment		
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.		No
Other Background Documents		
Other Background documents available for inspection at:		
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)	
1.		
2.		