

Title:	The Future of PRUs in Haringey - Discussion paper
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1. Summary

1.1 Local authorities are responsible for arranging suitable education for permanently excluded pupils, and for other pupils who because of illness or other reasons would not receive suitable education without such arrangements being made. The duty to provide education otherwise than at school for pupils at risk of exclusion, behaviour and/ or medical grounds does not require LA areas to set up PRUs. PRUs are one way (the most common) of discharging this duty. A number of LA areas such as Wolverhampton for a number of years have operated without PRUs and recently Wiltshire by deploying the "Power to innovate" have avoided the need to have PRUs.

1.2 Historically, as with many local authorities (LA), Haringey previously decided to provide suitable education for these categories of children by setting up specialist schools which, in accordance with Section 19, are known as Pupil Referral Units (PRUs). These schools (often referred to in Haringey as Pupil Support Centres) make provision until relevant children can return to ordinary mainstream education or as an alternative if they cannot so return.

1.3 The PRUs also take children who cannot attend their special school for reasons within Section 19, until alternative arrangements can be made in accordance with their Statements of Special Educational Needs.

1.4 All Haringey PSCs are registered with the DfE as PRUs. Historically, such schools have constituted a special category of school governed by separate Regulations. They have not had delegated budgets but rather a central budget and they have been run by Management Committees not by Governing Bodies. Their staff have been centrally employed by the Council. However, as mentioned above, the Council does not have to make this alternative educational provision by way of PRUs.

1.5 The Government is committed to raising standards in alternative provision and believes that the varied needs of pupils and schools can be best met by giving education professionals greater autonomy and choice. Since 1 April 2013, the Regulations governing PRUs changed considerably. This now means that all PRUs are expected by statute to have delegated budgets and delegated responsibilities for staffing. PRU Management Committees are now expected to take on the responsibilities of Governing Bodies in LA maintained schools. PRUs are expected to have the same capacity for self determination as maintained schools, including eligibility to federate or become Academies. It must be noted that pupils cannot be placed in a PRU through parental preference; they must be referred by an LA or by a school.

1.6 Since 1 April 2013, funding for PRUs now comes from the LA High Needs Block, which categorises them as providers of Alternative Provision. LAs and schools commission a negotiated number of Alternative Provision places at a rate of £8,000 per commissioned place from a PRU or other provider, and pay additional 'top-up' funding for individuals who take up those places, according to their needs. Contractual arrangements for other services – for example the commissioning of alternative provision places in schools – may also be part of the contract with the PRU or other Alternative Provision provider. The changes to national policy since April 2013 should have fundamentally altered the relationship of the LA with its PRUs – instead of line managing the provision, the LA has been expected to become a commissioner of whatever Alternative Provision is deemed necessary to meet its statutory responsibilities for permanently excluded etc pupils and to fulfil local policy objectives.

1.7 Providers of Alternative Provision (existing Short Stay Schools, PRUs or other providers) are currently expected to demonstrate the following characteristics:-

- a. Evidence of meeting defined outcomes for pupils;
- b. Financial viability and stability – based on Council predicted place-led funding (£8,000 per place) supplemented by pupil-led funding, school commissioning and/or Council behaviour support contract;
- c. Secure leadership and governance (Ofsted/Council Good or Outstanding) – considered essential for long-term stability for this type of provision;
- d. Appropriately skilled and experienced staff, and consistently high levels of performance;
- e. Capacity for improvement/development without dependence on Council intervention or additional financial or other resources;
- f. Ability to maintain confidence/engage in partnerships with local schools.

1.8 The Council is expected to review AP provider performance at least annually through a locally agreed quality assurance framework. If provision does not meet the above referenced criteria, the Council is expected to formally notify the governing body of the areas of concern and the need to improve and will instigate a competition to explore other options for provision in order to achieve desired outcomes and value for money. Existing providers would be eligible to tender and would be expected to offer a costed action plan addressing identified areas of concern as part of their bid. Ratification is requested to approve the proposed AP commissioning approach, rather than current direct delivery approach in principle.

1.9 Governing bodies of schools are responsible for arranging suitable full-time education from the sixth day of a fixed period exclusion. Schools may also direct pupils off-site for education, to help improve their behaviour. Changes to legislation¹⁸ required local authorities to delegate budgets to the management committee of the pupil referral unit from 1 April 2013. The relevant regulations¹⁹ prescribe how PRUs' budget shares are to be calculated and what funds for high needs pupils can be retained centrally by a local authority.

1.10 Since September 2012 if a local authority felt a new pupil referral unit needed to be established in their area, they must seek proposals from potential providers for the establishment of an academy (AP academy or AP Free School). From January 2013 in the event that a PRU is placed into special measures following an inspection by Ofsted, the DfE expectation is that the provision will become an academy.

1.11 The Secretary of State has the power to direct a local authority to close a pupil referral unit which requires special measures or significant improvement when this happens, the local authority must provide the Secretary of State with information about the arrangements it is making to ensure that pupils receive suitable education. Regulations allow the Secretary of State to make an AP Academy Order in relation to a pupil referral unit which requires special measures or significant improvement.

1.12 Regulations now allow the Secretary of State to establish a management committee consisting of interim executive members (an Interim Executive Board (IEB)) in a pupil referral unit which requires special measures, or significant improvement, or in a pupil referral unit the Secretary of State is satisfied is underperforming. As well as being used to ensure that the day to day running of the institution is effectively managed when intervention occurs, IEBs can be used as an effective intervention strategy in their own right, for example IEBs can apply for AP Academy Orders. These regulations define an underperforming pupil referral unit as one where the Secretary of State is satisfied that any of the following apply:

- the standards of performance of pupils at the unit are unacceptably low, and are likely to remain so;
- the quality of provision for pupils at the unit is unacceptably low;
- there has been a serious breakdown in the way the unit is conducted which is prejudicing, or likely to prejudice, such standards of performance;

- or the safety of pupils or staff of the unit is threatened (whether by a breakdown of discipline or otherwise).

2. Special measures and DfE expectations

2.1 The June 2013 Ofsted inspection of the Octagon (secondary) and Muswell Hill (primary) PRUs resulted in the provision being placed into special measures, owing to underperformance in a number of areas. Both settings shared the same URN and were therefore subject to a single inspection process. The Secretary of State expectation for PRUs that are placed into special measures, is that these will become AP academies. Meetings have since taken place between LA representatives and the DfE and more recently the PRU Management Committee and DfE with regards to the Department's expectations going forwards. The DfE is firmly committed to the academisation agenda and last month proposed three potential sponsors for possible management of local AP academies for consideration:

1) Olive Education Trust

Charity organisation, currently managing PRUs in the Thurrock LA area.

2) Tri - Borough Partnership

Overseeing leadership of PRUs and Education departments across three West London LA areas – Hammersmith and Fulham, Westminster, Kensington and Chelsea.

3) Catch 22

Amalgamation of the former crime reduction charity based organisations Rainer Trust and Crime Concern.

The DfE have recently confirmed that the **Tri – Borough Partnership** is to be their nominated preferred provider for the development of an AP PRU in Haringey.

3. Business case to seek permission to reconfigure and develop an AP Commissioning Framework

3.1 Whilst the DfE remain very clear on what their preference for what the future of PRUs in Haringey will look like, based on practice elsewhere should a compelling alternative approach be presented by the LA with the support of local schools and partners, the SOS is duty bound to consider this. Informed by local needs and preferences the Council is proposing to reconfigure provision at the Octagon PRU. The reconfigured approach will be to commission Alternative Provision for primary aged pupils on this site and move to an outsourced commissioning approach for KS3 and 4 pupils, retaining only a short stay assessment function for KS3/4 pupils at the Octagon, prior to being placed into a suitable commissioned AP setting via the LA In – Year Fair Access Panel (IYFAP).

3.2 The IYFAP framework is currently being redesigned in response to local needs and also being informed by emerging best practice regionally in for this area of focus. The proposed reconfigured AP approach underpinned by a robust commissioning and IYFAP model seeks to build on the recognised good

practice of the current Primary PRU, which in the recent inspection was rated as being good with outstanding features. Leadership and accountability for this policy area would be provided by a Lead Commissioner for AP (or equivalent). KS3 and KS4 alternative provision would be commissioned through a framework. A local AP provision map would be developed which would consist of provision from the local AP market that had been subject to LA criteria for commissioning, quality assurance and Ofsted ready criteria. Provision would be commissioned from local schools, neighbouring LAs such as Waltham Forest and local AP providers.

3.3 Education services are a Part B service under the Public Contract Regulations 2006 and as such do not need to be advertised in the Official Journal of the EU. The Council may set its own time limits for any AP tendering process in order to meet the requirement to provide the service from 1 April/ September 2014. There is no viable proposition for re-establishing the secondary PRU and therefore, it is proposed to formalise current arrangements by decommissioning the delivery of KS3 and 4 alternative provision at the Octagon PRU.

3.4 Arrangements for the delivery of KS3 and 4 AP from the 31 March/ August 2014 with the consent of the Secretary of State would be commissioned directly through a local commissioning and quality assurance framework. KS3/4 AP staff employed by the LA would in the main be decommissioned, as the new model would require only a local commissioning and quality assurance unit and core assessment team for initial assessment prior to placement via IYFAP of referred pupils. If this approach is agreed, HR procedures will be formally started in due course to support staff affected by the change.

3.5 The Haringey medical PRU provision is categorised by Ofsted as requiring improvement. Any final decision on closure or reconfiguration that the LA would wish to progress would be subject to Secretary of State approval.

3.6 Formal ratification is requested to approve the reconfiguration of the Octagon and Primary PRUs with effect from 31 March/ August 2014 to enable the Octagon Provision to serve only Primary pupils and KS3/4 pupils only for initial assessment.

3.7 Since Ofsted has placed the Secondary PRU in Special Measures, the approval of the Secretary of State is required in order to close the provision. Council officers are currently supporting the provision to implement a robust action plan to move them out of this category. An Acting Executive Headteacher is providing interim leadership with support from two job - sharing deputies (one full time equivalent role). However, the provision remains vulnerable and the proposed academy or reconfigured solutions – through sponsorship or commissioning elsewhere – is being explored by the Council with the DfE which would open in April/ September 2014. Headteachers and partners through the work of the PRU Management Committee are involved in discussions on any changes that might improve outcomes. There are considerable staffing implications of any decision to close and/ or reconfigure the KS3/4 AP staffing model. Formal ratification is requested to approve a request to the Secretary of State for permission to reconfigure The Octagon PRU with effect from 31 March/ August 2014.

3.8 In the intervening period the Council will continue to work to improve existing provision at the Octagon and is seeking the engagement of local schools and partners to sustain this.

3.9 It is intended to put in place a competitive commissioning process in place for April/ September 2014 onwards. The expectation would be that any proposed AP or Free School provider would enter a competition with other providers to develop a local AP preferred provider continuum of provision, where all approved providers would be subject to local commissioning and quality assurance criteria.

3.10 Proposed reconfiguration of the Octagon PRU will release the building currently used by the Primary PRU in Muswell Hill. This approach may provide capital benefit for local stakeholders. TUPE potential for staff no longer employed at the Octagon has not yet been confirmed.

3.11 If an application to the SoS is unsuccessful then any new PRU academy provider may operate on different staffing structures and there may be redundancy costs for staff who do not find alternative employment. As these staff are currently directly employed by the Council it would be required to include them in corporate redeployment arrangements.

3.12 The proposed approach to commissioning will be operationally deliverable and ensure high quality provision which is stable and sustainable. If the commissioning approach for KS3/4 AP is approved it is intended that from 1 April/ September 2014, additional and new AP providers will be needed. A competitive tendering process will be initiated to allow potential providers to demonstrate ability to meet Council criteria for Alternative Provision.

3.13 The Public Sector Equality Duty (PSED) came into force on 5 April 2011. The PSED replaces previous Public Equality Duties covering race, disability and gender, bringing them together into a single duty, and extends it to cover age, sex, sexual orientation, religion or belief, and pregnancy/maternity. Any provision commissioned by the Council will be fully compliant with the PSED. Access to Alternative Provision will continue to be based on the educational needs of the pupil, irrespective of race, disability, gender, or sexual orientation.

3.14 The PSED requires public bodies such as the Council to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations in the course of developing policies and delivering services. Policies and practices of any Council commissioned provider will demonstrate this.

3.15 These proposals maintain access to alternative provision for pupils and focus on delivery by a different provider. There are no equality implications. Pupils who currently receive alternative provision will continue to receive it and eligibility criteria are unchanged. EIA screening has been undertaken and indicates that a full EIA is not required.

4. Draft Timetable for transformation

21 - 31 October 2013

Permission sought on proposals across stakeholders, relevant consortia and forums.

WC 4 November 2013

Application to the Secretary of State for reconfiguration of The Octagon PRU.

November – December 2013

Formal HR notification to staff affected.

November - December 2013

HR meetings with staff and Unions and start of consultations.

December 2013

- Decision from Secretary of State on proposed reconfiguration of Octagon PRU and LA AP proposals for KS3/4 received and communicated to key stakeholders
- Progress with implementation of option A or B depending on SoS decision in response to application for reconfiguration

January 2014

Formal 30 day consultation period begins for all PRU staff

February 2014

- Response to consultation issued
- Sign off at appropriate level
- Commissioning documentation for new Alternative Provision framework complete.
- Deadline for notice period to be given to staff being made redundant from 1 April (28 February)

31 March/ August 2014

Reconfiguration of the LA AP arrangements, Primary PRU based at Octagon, KS3/4 AP commissioned through local providers (schools, partner LAs and local AP providers). Secondary PRU staff employment ceases.

1 April/ September 2014

New Alternative Provision model commissioned.

5. Key decisions required

- 1) Accept the DfE default position of academisation and choice of preferred provider for future KS1-4 AP model. The LA will then need to develop a central commissioning unit for AP, to ensure that S19 duties are being discharged effectively and efficiently in order to maintain an overview of all vulnerable children and young people having access to suitable provision according to their age, aptitude and ability within statutory time limits.
- 2) Reconfigure the age range of the Haringey PRU to adopt a primary age focus for children aged 5-11, assessment centre for KS3/4 pupils prior to placement in appropriate AP provision via the IYFAP and move to a strategic commissioning and outsourced approach, for providing EOTAS to secondary aged pupils. The Primary PRU in the recent Ofsted inspection was rated as being good with outstanding features, whereas the secondary provision was consistently rated by the inspection team as being inadequate. This approach would require Secretary of State approval, but in seeking to build on the good practice of the Primary provision and strengthen the commissioning approach, this is in line with DfE direction of travel for the AP agenda.
- 3) Appoint a Lead Strategic Commissioner for Alternative provision to lead a strategic commissioning unit/ team with responsibilities for ensuring that “no child was left behind” with regards to being able to access suitable provision according to their respective age, aptitude and ability. This approach would be underpinned by a needs - led commissioning framework to support local schools and commission local preferred providers who had met the local quality assurance framework for being “inspection ready” and able to provide suitable AP provision. This approach would seek to enable and empower schools to deploy consortia/ locality approaches to commissioning AP and EOTAS provision, that had been assessed as meeting local quality standards and criteria.
- 4) A local provision map with registered and affiliated AP providers who had met local criteria and pan London quality standards would need to be developed across the North and East London LA AP network, to increase provision access in response to local needs. Regardless of option one or two being deployed, this approach will be crucial for ensuring that the LA is effectively discharging the section 19 EOTAS (education otherwise than at school) duty.
- 5) Underpinned by commissioning framework, school/ locality consortia in a period of three to five years would be expected to operationally commission via LA framework AP provision in response to locality/ consortia need, changing the role of the LA from being a provider of AP provision to a commissioner. The LA would maintain a strategic, challenge and support function, with accountability for quality assurance and risk management systems and processes with the role of the Commissioner (or equivalent) being the LA lead professional for accountability and performance.

6. Timing

6.1 This report is on the Schools Forum agenda for 24 October 2013. The report provides a discussion paper for how we will plan our Alternative provision approach in the borough in response to local needs and will inform a further report to stakeholders and Cabinet in 2014.

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