

<b>TITLE</b>	<b>Proposed New Resource Base for Secondary Aged Children</b>
<b>FOR CONSIDERATION BY</b>	The Executive on Thursday, 28 January 2021
<b>WARD</b>	None Specific;
<b>LEAD OFFICER</b>	Director, Children's Services - Carol Cammiss
<b>LEAD MEMBER</b>	Executive Member for Children's Services - UllaKarin Clark

**PURPOSE OF REPORT**

This proposal will deliver appropriate resource base provision for Wokingham secondary aged children with Autistic Spectrum Disorder and Social Emotional and Mental Health needs. This will be value for money provision developed with sustainability in mind, and will provide continuity and a centre of excellence in SEND practice for the children in the borough who use it. The cumulative spend over five years will exceed £500,000, therefore this must be approved by the Executive.

This report demonstrates how the new resource base will deliver improved outcomes for children while delivering financial savings and a sustainable partnership between the provider school and WBC.

**RECOMMENDATION**

That the Executive approve the proposal to commission a new secondary resource base in Wokingham, including revenue and capital costs

**EXECUTIVE SUMMARY**

- 1.1. Existing resource base provision for secondary aged children with a diagnosis of ASD in Wokingham has been provided by St Crispin's School since 2017 ('The Oaks'). The SLA agreed in 2017 funded the provision at what is now considered an unsustainably high level, which the Council cannot reconcile with its duty to seek value for money. Following a period of negotiation over service and fee arrangements, notice was given in April 2019 that Wokingham Borough Council intended to withdraw from the Service Level Agreement with St Crispin's and would cease to place children there from 30<sup>th</sup> September 2020.
  
- 1.2. The proposal in this paper is to commission a new resource base for secondary aged children (Years 7 – 11) with ASD and SEMH needs. The resource base would be hosted by a Wokingham secondary school and will take five children in its Year 7 intake, every year from September 2021, until they reach a full complement of 25 children in Years 7 – 11 by September 2025.
  
- 1.3. The resource base would be funded in line with the new resource base funding model being developed by Strategy & Commissioning with the SEND team. At present an interim model is being used for all primary age resource bases. Over

the life of the project, this is projected to demonstrate savings against the existing provision funding agreement.

- 1.4. In line with the draft SEND strategic objectives, WBC will develop a strong commissioning link with the new resource base, working together to ensure quality of outcomes, provide a steer on decision making and develop a financially sustainable partnership in which the local authority leads on high quality services for children with SEND.

The Executive is asked to approve the proposal for a new resource base for Wokingham.

## BACKGROUND

### 2. Background and Context

2.1. A resource base is specialist provision for children with SEND within a mainstream school, sometimes known as a SEN unit or specialist resource base ([SEND Code of Practice, 2015](#)). It is designed for children who struggle to cope with mainstream education without additional support, but who do not require the intensive interventions of a special school. Resource bases allow a child to stay in mainstream school by having the opportunity to access the resource base for some of the time, in addition to attending their timetabled classes. This access varies from child to child and school to school; in rare cases, children will access the resource base for 100% of their class time, but generally the proportion of time spent in the resource base is somewhere between 20% and 80%. To be placed in a resource base, a child must have an EHCP that names the resource base in Section F as the required provision.

### 3. National policy

3.1. Resource bases and their use are governed by the SEND Code of Practice, which requires the local authority to make provision available for children with SEND as named in their Education, Health and Care Plan (EHCP). Further legislation is referred to below.

3.2. The [Area Guidelines for SEND and Alternative Provision](#) give guidance for the physical spaces used for SEND education, including resource bases. Although this is called 'guidance', the expectation from the Department for Education is that resource units and other provisions commissioned by local authorities will be devised in line with it. The new resource base provider will be expected to demonstrate how they will meet the physical needs of the provision, with a focus on how they will manage the expanding spatial and staffing needs of a five-year staggered intake.

3.3. There is currently no national strategy for children with autism, although Think Autism (2014), the strategy for adults with autism, is being refreshed to include children and young people. The government originally consulted on this in 2018 and proposed to deliver the updated strategy by Autumn 2019 but this has been delayed.

3.4. In the absence of a strategy, the [NICE Clinical Guideline 170 \(2013\)](#) contains the most comprehensive official guidance in the management and support of ASD in under 19s. A secondary resource base commissioned for children with ASD will be expected to be able to demonstrate how they will develop a deeper knowledge of ASD as a condition and experience in delivering interventions as per the NICE guideline that effectively work with children with ASD and their parents.

### 4. Local policy

4.1. This project directly correlates to Priority 1 in the draft SEND Strategy for Wokingham, 'Build local provision to better meet local needs', by improving the effectiveness and cost of resource base provision by delivering a new tailored

resource, and focusing on the increasing need for resource base provision that specialises in ASD with SEMH needs within Wokingham's cohort of SEND children. Priority 4 of delivering better outcomes via 'intelligence and strategic commissioning' is also met through this project as commissioners will have strong strategic input to delivery throughout.

4.2. This project also links to the Wokingham Borough Council Community Vision priority 'Enriching Lives', stating the intention to 'Champion outstanding education and enable our children and young people to achieve their full potential, regardless of their background'.

## 5. Legislative Background

- 5.1.1. All SEND provision is covered by the SEND Code of Practice (2015), but there are other pieces of legislation and case law that are relevant to resource bases in general and this project in particular:
- 5.1.2. [Section 42 of the Children and Families Act 2014](#): The local authority has a duty to secure the type of special educational provision named in section F of a child's Education, Health and Care Plan
- 5.1.3. [Section 27 of the Children and Families Act 2014](#): The local authority has a duty to keep the education and training it provides under review, and also has a duty to consult children, parents and other stakeholders in the process. However, the Act does not stipulate under what circumstances a full consultation must take place
- 5.1.4. [Part 3 of the Children and Families Act 2014](#): General duties conferred on local authority and health commissioners to children with SEND and their families; schools' responsibilities to the same
- 5.1.5. The [Special Educational Needs and Disability Regulations 2014](#), which sets out the process for assessing and agreeing an EHC plan and the duties incumbent following agreement
- 5.1.6. [R\(AD\) v Hackney \[2019\] EWHC 943](#): This is relevant to how provision is funded and allows for flexibility in how funding formulae for resource bases is calculated. This case also followed a previous judgement in [R \(Hollow and others\) v Surrey County Council \[2019\] EWHC 618](#) in determining that the s.27 duty to consult is relevant to global strategic consideration of sufficiency, at regular intervals to ensure regular review. This duty is discharged through meetings with the parent carer forum, SEND improvement board, and other regular meetings. Therefore, there is no legal duty under the PSED to consult as no reduction in provision is proposed and WBC have agreed to continue funding the students already at The Oaks until they complete year 11, recognising that a move midway through their school career could be traumatising for the children in this provision. However, as it is good practice to consult, the project includes time for engagement with stakeholders and a short formal consultation period.
- 5.1.7. The Public Sector Equality Duty as laid out in [section 149 of the Equality Act 2010](#): public bodies have a duty not only to have due regard to the need

to eliminate discrimination and advance equality of opportunity, but also to foster good relations between different groups. Disabled people including children with SEND are a protected group under the Equalities Act, therefore this provision applies here.

## 6. 2017 Review and Current Provision

6.1. In 2017, a SEND review recommended that discussions be held with the secondary resource base hosts, St Crispin's School, with a view to taking children with more complex needs and revising how they were funded, to be 'fair, transparent and consistent' and made recommendations regarding place sufficiency, currently being considered under continuous improvement.

6.2. Following this work, WBC reviewed the provision and the funding relationship at St Crispin's. A place at St Crispin's resource base is priced at £30,000 per child under the SLA agreed by an interim Assistant Director in 2016, therefore is not subject to the local authority funding formula for all other resource bases. Relative to the other resource bases in Wokingham and comparable provision for ASD elsewhere, the costs of places at The Oaks were unsustainably high, and even exceed the costs of special school placements at Addington. Negotiations over cost and admissions took place in 2018, which ultimately resulted in no common position being reached. In April 2019, WBC gave notice of their intention to withdraw from St Crispin's from 30th September 2020.

6.3. The current SLA funding agreement is shown in the table below. Please note this does not include the substantial capital investment in the building at St Crispin's in 2016/17 but does include a diminishing annual revenue contribution to start-up costs, and that the projected spend in 21/22 will not occur as Wokingham withdrew from the agreement, effective from 30<sup>th</sup> September 2020.

Financial Year	Places	Formula £	Top-up £	Total £
2017/2018	5	30K per place	50,000	200,000
2018/2019	10	30K per place	25,000	325,000
2019/2020	15	30K per place	25,000	475,000
2020/2021	20	30K per place	10,000	610,000
2021/2022	25	30K per place	5,000	755,000
<b>Total</b>	<b>2,365,000</b>			

6.4. It is estimated that the new resource base will mainly accommodate children in the new Band 6 category, equivalent to the higher end of the current 'ASD3' category. The projected costs including any additional start-up costs but not including capital of the new resource base are as follows:

FY	Pupils on roll from September	Apr-Aug	Sep-Mar	TOTAL
2021-22	5	-	57,175.42	57,175.42
2022-23	10	40,839.58	114,350.83	155,190.42
2023-24	15	81,679.17	171,526.25	253,205.42
2024-25	20	122,518.75	228,701.67	351,220.42
2025-26	25	163,358.33	285,877.08	449,235.42
			<b>CUMULATIVE TOTAL</b>	<b>1,266,027.08</b>

6.5. This figure has been calculated using the current interim resource base funding model (see 8.2) to give an estimate of the likely cost when the finalised funding model is implemented in April 2021.

6.6. Since notice was given, there have been a number of staff changes in the senior leadership at WBC. Coupled with the COVID-19 pandemic, this has meant that the work to deliver a new secondary resource base has not been possible until now.

## 7. Resource Base Funding

7.1. Resource bases are funded through the High Needs Block of the Dedicated Schools Grant (DSG), distributed to local authorities by the Education and Skills Funding Agency (ESFA). Resource base funding is an initial £10,000 per pupil per year, plus the top up, broken down as follows:

7.1.1. **Element 1:** Age Weighted Pupil Unit (AWPU) - £4,000 per pupil per year

7.1.2. **Element 2:** Notional SEN - £6,000 per pupil per year

7.1.3. **Top-up funding:** Funding to meet the needs stated on a pupil's Education, Health and Care Plan, to be determined by the local authority

7.2. Under ESFA rules, local authorities must pay element 1 and 2 funding to resource bases for empty places in order to maintain affordability for running the base within the school, hence the payment for empty places. Resource base funding has not been reviewed for several years and schools are receiving variable amounts of top up funding, which in some cases is so low that the empty place funding is effectively covering the cost of provision for the lower number of children in the base.

7.3. A new funding model is being developed to address the inequity in funding between resource bases by using a needs-led approach to individual pupil top-ups. The model is currently being finalised and will be adopted for use in the next financial year (April 2021). Using a matrix of descriptors, each pupil will be placed into a band with a correlating financial value. This value has been calculated to take into account the specific needs of pupils based on any

diagnosed condition, using the likely cost of provision and support needed. The full matrix is available as Appendix A.

- 7.4. The matrix was shown to schools at two workshops in December 2019 and schools approved the descriptors of need in it. Subsequent staff changes and the global pandemic paused the work until October 2020.
- 7.5. Following schools' feedback on the matrix, work was undertaken to match up the descriptors more effectively and apply a comprehensive cost to the descriptors of need. This was a sizeable task and commissioning convened a panel of experts including the Principal Educational Psychologist and a SEND consultant to assist in determining the final bandings.
- 7.6. At present, there are 98 resource base places in Wokingham (20 secondary<sup>1</sup>, 78 primary) and 37 of them (all primary) were empty at the last schools census. Under the ESFA rules, WBC must pay the element one and two funding for empty places in resource bases by agreement in order to make it financially viable for schools to host the resource base. This is a total of 10k per pupil place which means that a total of £370,000 was spent on empty places last year.
- 7.7. Given the information we currently have, and the nature of the ASD resource base classroom including space constraints, numbers of support staff, and sensory needs, it appears that the current available resource base secondary provision numbers (five places per year from Years 7 – 11) is the right number to commission now.

## 8. Current bandings

8.1. An interim funding model was implemented in April 2019. This was based on the model used by West Berkshire and the values were traduced from there to provide adequate funding for Wokingham. In this model from Wright's 2017 report, children are placed into a band based on their needs, which correlates to a funding amount that can pay for that provision. Wokingham's resource bases have reported that this amount of funding is much more equitable and affordable for them.

8.2. The current funding values are as follows<sup>2</sup>:

<b>SEN Band</b>	<b>Rate</b>
ASD1	£13,037
ASD2	£16,320
ASD3	£19,603
HI2	£15,625
HI3	£20,645
PD1	£4,220

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<sup>1</sup> The Oaks started taking five pupils per year in 2017 and is currently in its fourth year, hence having 20 pupils in attendance.

<sup>2</sup> Acronyms: ASD – Autism Spectrum Disorder; HI – Hearing or Visual Impairment; PD – Physical Disability; SL – Speech and Language

PD2	£7,503
PD3	£10,786
SL1	£0
SL2	£2,894
SL3	£6,177

8.3. The above is an interim solution while a permanent and sustainable model bespoke to Wokingham is developed. The new funding model due to start in April 2021 is more relevant to Wokingham children and seeks to address the disparity in levels of funding for different resource bases, using clinically-informed descriptors to fund a range of provision. The model is currently being finalised and will be put forward for approval in Spring 2021 before being adopted.

## 9. New Resource Base

9.1. A new resource base for Wokingham will allow commissioners to ensure quality in service delivery and appropriate monitoring and evaluation of outcomes for children, ensuring that the borough's children can access the right provision at the right time. Funding will be allocated equitably and appropriately using the needs-led funding model in line with all other WBC resource bases. Commissioners will use partnership working to strengthen links between the resource base and the local community, including good communication between parents/carers, schools and the Authority. In line with work around the SEND strategy, the provision will deliver sustainable and consistent high-quality outcomes for children with ASD who need support to thrive in a mainstream environment, improving levels of inclusivity throughout the borough.

9.2. Due to the compact timescale, all Wokingham secondary schools have been invited to express interest in delivering the resource base, in anticipation of and contingent on CDLT approval. A full application process will take place in Winter/Spring 20/21. The resource base would open in September 2021 and take five children into its Year 7 intake each year until they have a full complement of 25 children in Years 7 – 11. Children in the current provision will remain there for their remaining statutory schooling.

9.3. Due to the tight timescale available to enable the resource to be in place for September 2021, it was agreed that requests for expressions of interest should take place immediately, in anticipation of this option being supported. If it is decided that this option is not to be supported, those schools which have expressed an interest will be contacted and advised of the situation.

9.4. The new resource base would have the following features:

- The resource base will offer places for five children per year group over and above the school's agreed admission number
- The places will be available for Wokingham children meeting the admissions criteria set out below
- The aim is for students accessing this new resource to take part in the school's main curriculum

- Students accessing this resource will normally be in mainstream classes with opportunities to access some individualised learning to meet sensory needs, which cannot be addressed in mainstream classes, as they arise
- The resource base will only be available to young people diagnosed with ASD, whose EHCP specifically indicates the need for resource base provision.
- Children will be allocated to the resource base by Wokingham Borough Council's Special Educational Needs Service based on the following criteria:

Any child deemed suitable for a placement within the resource base will receive support:

- to manage access to a broad and balanced mainstream curriculum delivered by specialist subject teachers with social skills, pastoral support, extracurricular activities including support to address Social, Emotional and Mental Health related issues
- with information, advice and guidance about future education and work options tailored to meet his/her specific needs
- to access supervised break and lunchtime activities
- within an inclusive environment which demonstrably values all of its children
- from agencies and organisations which are external to the school
- in ensuring a close relationship between his/her home setting and the school

9.5. We recognise that there is a minimum level of staffing required to manage the running of a resource base and that in the first few years, the funding formula on its own may not be totally sufficient to address that situation. We would therefore discuss this with the successful school, for an agreed solution to be incorporated into the service level agreement.

## 10. Capital provision

10.1. Due to the compact timescale of the project, the need for capital funding is still to be fully determined. However, there are three scenarios regarding capital provision, briefly described as follows:

### 10.1.1. Scenario 1:

- School already has accommodation that meets SEND area guidelines and can be repurposed without cost
- No capital required
- Project proceeds without capital bid
- Potential cost: £0

### 10.1.2. **Scenario 2: (most likely)**

- School has buildings suitable for year 1 and 2 of delivery; will need to build in that time
- Current and proposed buildings must meet SEND area guidelines
- Capital needed in year 2 or beyond
- Potential cost: £150k+

### 10.1.3. Scenario 3:

- School has no suitable accommodation, new build needed in year 1 (year 1 managed in existing classroom)
- Capital needed in year 1
- Potential cost: £1m+

10.2. Taking into account the viability of existing buildings and accommodations in Wokingham's secondary schools, it is estimated that the most likely scenario is one where existing buildings need some refurbishment or extension, but that this will not be necessary until year 2 of delivery, as in the first year, five pupils can be accommodated with relative ease. Using the SEND Area Guidelines for estimating the square footage of required classroom space, around 135sqm will be needed for five pupils in year 1, building up gradually to a total of approx. 405sqm in year 5. The cost of this is estimated to be £200,000.

10.3. There are existing capital budgets already designated for SEND provision to cover this amount, which could be repurposed to provide capital funding for this project. These include the following sources:

- Section 106 funding (amount tbc)
- Special educational provision capital funding (approx. £225k)
- SEND investment programme (approx. £300k)
- General SEND fund (approx. £800k)

10.4. Please note all amounts are subject to confirmation by capital finance following approval of the project by the Executive. Due to timescale, the project is working on estimations and full capital cost details will be made available as soon as they are confirmed.

## 11. Procurement

11.1. As this procurement is 'public sector to public sector' (i.e. the Local Authority to the School), the requirement to follow an OJEU timetable does not apply under [Part 2 Regulation 12 Public Contracts Regulations 2015](#); however, with WBC procurement support, the commissioning team plan to follow best practice and use a timetable to evaluate bids using a panel of assessors and a moderation report.

11.2. As part of the application process, it is proposed that all applicants with acceptable submissions attend an interview to discuss the plans and proposals for the resource base, including questions about responding to incidents and examining the level of practice knowledge held within the school.

## 12. Issues and Risks

12.1. A comprehensive dynamic risk assessment has been compiled should this option be approved, and is available as an Appendix. The main risks to the project, both on timely delivery and of total failure, are below<sup>3</sup>:

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<sup>3</sup> See 'Legal implications' for detail on the legal risks

## 12.2. Accommodation

12.2.1. As the project is planned on a tight timescale, it is necessary for any applicant schools to have appropriate accommodation already in place, at least for the first year of delivery. As space is at a premium in Wokingham, there is a potential risk that no school will be able to physically accommodate the resource base. However, this risk is mitigated by the incremental nature of the resource base growth, as much less space will be required in Year 1 than Year 5, allowing time to develop the spatial requirements, as per the Area Guidelines.

## 12.3. Timescales

12.3.1. Due to the delays noted earlier, this project is planned with an unusually short duration before implementation and delivery. The risk is that any lapse or delay in the project milestones would endanger the delivery start date, which could put the Council in breach of their statutory duty under the SEND Code of Practice and the Children and Families Act.

12.3.2. To mitigate this risk, all internal project team members would have to acknowledge they understand the need for timeliness and prompt responsiveness on this project. It is proposed that the project be owned by the Assistant Director for Learning, Achievement and Partnerships together with the Director for Children's Services, in order to give leadership focus and strategic pull when it is needed.

## 12.4. Communications

12.4.1. There is a potential risk of negative public perception, particularly among the SEND community in Wokingham, regarding the closure of the existing provision and the commissioning of a new resource base. Work has been done to bring together SEND parents and carers, VCS organisations working in SEND and the Council, to develop a multiagency response to the SEND needs in the borough. Relationships have improved as a result, thus mitigating this risk.

12.4.2. However, the closure of a school or other educational provision carries a risk of negative media and public perceptions. Although WBC gave notice on St Crispin's in April 2019, it is acknowledged that official communications regarding this development were limited. The Communications, Engagement and Marketing (CEM) team at WBC have already been consulted about this project and agreed to join the project team, in order to handle any communications risks as they arise.

## 13. Recommendations

13.1. It is recommended that the Executive approve a new resource base for secondary aged pupils with ASD whose primary needs relate to SEMH being commissioned in Wokingham, with a start date for the first Year 7 intake of September 2021.

## FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

***The Council faces severe funding pressures, particularly in the face of the COVID-19 crisis. It is therefore imperative that Council resources are focused on the vulnerable and on its highest priorities.***

NB: These figures are for top up only. Place funding is £10k total explained below. Pls see s.10 for Capital provision information	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0	NA	NA
Next Financial Year (Year 2)	£86, 342	Yes	Revenue (DSG)
Following Financial Year (Year 3)	£190,607	Yes	Revenue (DSG)

### Other Financial Information

Resource bases are funded through the High Needs Block element of the Dedicated Schools Grant (DSG) local authorities receive from the Department for Education (DfE), with funding consisting of 3 separate 'elements'.

#### Element 1

Funded from the Schools Block of the DSG, this is the funding (Age Weighted Pupil Unit or 'AWPU') that the school has as part of core budget setting. This is nationally referred to as £4,000 per pupil per annum, but the actual amount is dictated through the AWPU in the Schools Block Funding Formula. As the AWPU formula is based on the October census preceding the start of the financial year, where a commissioned place in a resource base is empty at the census date the school does not receive this funding as part of their core budget. The commissioning local authority is therefore required to fund this element for any empty places from the High Needs Block.

#### Element 2

Funded from the High Needs Block of the DSG, this is 'place' funding, recognising the increased costs over and above the 'core' funding in element 1 involved in delivering a resource base. This is set through the National Funding Formula and is currently £6,000 per place per annum. The local authority pays this based on the number of commissioned places in each resource base, regardless of the number of pupils placed there, or which local authority pupils originate from.

#### Element 3

Funded from the High Needs Block, this is 'top-up funding' based on the individual needs of the child. This is payable by the Local Authority responsible for the EHCP of the individual. Each local authority derives their own funding model for top-ups. The current interim arrangement in Wokingham varies per place, with the current range for children with ASD ranging from ASD1 £13,037 to ASD3 £19,603<sup>4</sup>. The current secondary ASD resource base provision was not priced according to need, but set at a flat fee of £30,000 per place.

<sup>4</sup> As The Oaks is currently funded on a flat fee arrangement at £30k per place, we are not currently sighted on the levels of need of children in The Oaks.

The financial model for all Wokingham resource bases is currently subject to review. Work is underway to move all resource bases to a needs-led funding model by April 2021. Schools applying for this opportunity would be offered further information prior to the application process opening. The project team would be able to give an estimated range, based on the likely profile of pupils attending.

Against the well documented backdrop of financial challenge within the High Needs Block, bringing the ASD secondary resource base under the same funding model as other local resource base settings is a positive step forward. This should improve cost effectiveness, enhance visibility and understanding of how rates are set, and provide for greater equity across local settings.

A number of **financial risks** will however require to be managed:

Economies of Scale – it is recognised that there are fixed costs associated with the operation of a resource base that can prove challenging to meet when a setting is low in numbers. There is therefore a risk that for both the initial years of the new resource base when numbers are low, and the remaining years of the current resource base as numbers decline, that additional 'economies of scale' funding might be required to ensure financial sustainability. Where this is considered appropriate, this should be clearly set out as part of any funding arrangement separately from the ongoing funding model agreed.

Investment in accommodation for new resource base setting – as identified in paragraph 15.2 the identification of a suitable accommodation space is essential for the successful delivery of any new resource base. Any capital investment required to deliver that is not currently identified in the Council's capital programme and therefore early discussion on the financial implications of this will be necessary.

### **Stakeholder Considerations and Consultation**

Under s.3 of the SEND Code of Practice, local authorities must engage with parents, carers and children and young people when commissioning services. There is no mandate for formal consultation. This project will use collaboration wherever possible and the following events have been planned:

Early engagement with VCS SEND organisations in Wokingham: November 2020 and ongoing

Stakeholder meeting for schools interested in hosting resource base: 7<sup>th</sup> January 2021

Stakeholder meeting for parents/carers and children and young people: 14<sup>th</sup> January 2021

As part of the governance and monitoring arrangements, an advisory group will be set up to give support to and feedback on the resource base delivery. This will include a parent carer.

### **HR IMPLICATIONS**

The risks that apply to most commissioning projects apply here, including the risk to project timeliness of any possible TUPE and HR implications. Due to the fact that this

project aims to incrementally grow the new provision over five years, this is felt to be a manageable risk, as there will not be a large number of staff whose roles are affected.

### **LEGAL IMPLICATIONS**

Due to the tight timescale, it is highly likely that the usual date in mid-February when children and families are informed of their place in a named resource base will not be met for the five children who will be placed in the new resource. The statutory requirement is that the children and families are notified of the type of placement at this point; although it is best practice for the named school to be known also at this point, it is proposed that we work with those families affected on a one-to-one basis to ensure they are kept in close communication about the process and deal with any concerns as they arise. There would only be a short delay as the planned award date would be in Spring 2021.

While this is not ideal, the above situation would be manageable and not present a risk to the project. However, there are two risks whereby legal action could arise:

- Parents unhappy with the process could seek INMSS places via tribunal
- Parents or other stakeholders who are unhappy with the process could seek judicial review of the decision to withdraw from the existing provision and commission a new resource base

The likelihood of these risks occurring are assessed as low, as the planned process is fair, transparent and abides by all procurement rules.

### **KEY OR RELEVANT MILESTONES AND TIMESCALES**

A full project plan is appended, however for ease of reference key milestones are:

Project start date: November 2020  
Project end date: September 2021  
Application process open: February 2020  
Application process close: late February 2020  
SEND parent usual allocation date: February 2021  
Proposed date of award: 5<sup>th</sup> April 2021  
SEND parent actual allocation date: 6<sup>th</sup> April 2021  
Implementation period: April – September 2021  
Children start in resource base: September 2021

### **IMPACT ON WIDER ORGANISATION AND ESCALATION TO CLT (if appropriate and why)**

Due to the cumulative value of this project over five years, which will exceed £500,000, this project would be escalated for approval by the Executive before award could be made. There will be a positive financial impact on the wider organisation, as the project represents improved value for money and more responsible stewardship of resource.

### **Appendix 1 – List of acronyms**

SEND: Special Educational Needs and Disabilities  
DfE: Department for Education  
ASD: Autistic Spectrum Disorder  
SEMH: Social, Emotional and Mental Health  
PD: Physical Disability

PMLD: Profound and Multiple Learning Disabilities  
 HI: Hearing Impairment  
 ESFA: Education and Skills Funding Agency  
 EHCP: Education, Health and Care Plan  
 INMSS: Independent or Non-Maintained Special School  
 SLA: Service Level Agreement  
 PSED: Public Sector Equality Duty  
 WBC: Wokingham Borough Council

**Public Sector Equality Duty**

The Public Sector Equality Duty has been considered and will be met in this project. Specific reference to it will be made in the specification. By improving the educational experience and attainment of pupils entering the resource base, the project will advance equality of opportunity for all. No equalities impact assessment has been undertaken as an initial risk assessment shows there is no risk of inequalities occurring as a result of this project. Equalities will be specifically addressed within the specification.

***Climate Emergency – This Council has declared a climate emergency and is committed to playing as full a role as possible – leading by example as well as by exhortation – in achieving a carbon neutral Wokingham Borough by 2030***

None

**List of Background Papers**

Project plan  
 Risk register

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