

## Looked After Children from another Local Authority moving into residence in a Children's Home or Foster Placement in Leicestershire.

### The Role of the SEIPS: Advice on Good Practice

1. It is a good idea for SEIPS to maintain good relationships with any local Children's Homes and to encourage the Children's Homes leaders to make direct contact with the local Co-ordinator as soon as they take on a child from another local authority.
2. As soon as a Co-ordinator hears from a Children's Home or from Leicestershire School Admissions (SAPs) that a child from out of county needs a secondary school place he or she should act to identify a school. The legal responsibility for pursuing a place lies with the Child's "corporate parent" local authority's social worker with advice from the Virtual School Headteacher(VSH) and with SAPs **but neither the VSH nor SAPs may have the local knowledge needed to decide which school might be most suitable**. Co-ordinators – if you don't act now you will end up picking up the pieces later!
3. Co-ordinators: Make it clear to the Children Homes leader, foster parent and/or home local authority that you do not have the power to allocate a school place – you can advise only. You might want to use the processes you use for Fair Access to decide which school is best suited for the child but the rules of Fair Access can only be a guide. This is because admissions of Children in Care are outside "Fair Access"; school's cannot normally refuse even if they are full and even if they have taken more than their "fair share" of Fair Access cases<sup>1</sup>. The paramount consideration is "Where would be best for this child". It is the responsibility of the Local Authority Admissions Service to ensure admission – not the Co-ordinators responsibility.
4. Once the child is on a school roll the school has the responsibility for deciding whether the child should be referred to the Partnership for additional support. Informally the local Co-ordinator might want to prompt the school "to get on with the referral" in order to ensure that any additional needs of the child are not overlooked.
5. In Leicestershire we see any challenging behaviour as a sign that the child has social, emotional and/or mental health needs (semh) or other SEN and will therefore place the child on the SEN record. First questions about the child would be:
  - a. Has (s)he got an EHCP?
  - b. Has the process for formal assessment as a first step to securing an EHCP been started?
6. Securing an EHCP for such children, if appropriate to their needs, should be an urgent task. It moves toward securing the additional funding that the child might need in the long run. The funding is the legal responsibility of Leicestershire SENA and any issues about whether the "corporate parent" authority should be contributing can be dealt with by SENA under the SEN regulations (including the belonging regulations which deal with SEN and medical needs but not permanent exclusion nor challenging behaviour<sup>2</sup>)
7. If the child does not have an EHCP but requires a programme of Alternative Provision the local SEIP is exposed to a financial cost that may be unexpected and difficult to cover. **This should not be an excuse for delay**. Whilst Leicestershire SEIPS should not suggest to any other local authority that any programme we are planning is dependent on funding from that authority we should ask for financial help. Co-ordinators should prepare for negotiation with the "corporate parent" local authority! Co-ordinators are advised to plan their negotiations taking advice from the other co-ordinators.

- a. The legislation makes it clear that education costs should be met by the area in which the child is currently residing so that the child is funded in exactly the same way as any other county resident. Moreover the costs of educating a permanently excluded child are met by the Local Authority where the child resides<sup>3</sup>.
- b. The view of LCC is that a child in the care of another local authority living in a foster place or care home in Leicestershire, should access provision paid for from school budgets. Schools (and/or Partnership) must pay the equivalent of the average pupil cost + £6000 for provision. The LA view is that if the provision costs more than this sum (currently at KS3 £5123.65+ £6000, at KS4 £5773.99+ £6000 (21-22)) **the “Corporate Parent” authority should meet the additional cost.**
- c. Transport costs should be included in your calculations. The CP Local Authority may have a transport policy that means it will meet the cost of transporting a child to his or her education provision, especially if they are in foster care or a children’s home. The VSH may not think of this when discussing costs – so remind them!
- d. Any Alternative Programme should be planned with the participation of the child’s CP local authority’s Social Worker and VSH. **Work in partnership with both whenever possible.** The home authority has access to Pupil Premium Plus funding (currently £2345/ child). The regulations make it clear that VHS may use this money not as a strict allocation per pupil but as global sum to be used in the best interests of all the children in its care. Co-ordinators can suggest a contribution even if the financial threshold above is not reached.
- e. You might seek more financial support by raising with the home authority VSH:
  - i. What is the likely length of time for the child’s residency in Leicestershire? If this is a **very** temporary measure you will argue that the cost of any provision should be met in full by the home local authority on the grounds that the child is really a permanent resident back at home.
  - ii. Was the child on the verge of permanent exclusion or had in fact the child been permanently excluded? If the answer is yes the placement in Leicestershire might be seen as part of the home local authority’s provision for meeting the education needs of a permanently excluded child in which case the home local authority should pay for the educational provision.

With the exception of costs that are above the threshold there is no hard and fast answer in these cases – it is down to negotiation. If you can’t agree it must not be allowed to impact on the child but you should indicate that you will ask your Local Authority to pursue the issue. If the VSH from the home local authority refuses the request the issue should be reported to Leicestershire Local Authority who will take action. Leicestershire VSH may be able to offer advice and may have contact with the CP local authority VSH that can help.

- f. If a child on roll at a Leicestershire school has a programme provided by the SEIP they will be charged the Average Pupil cost pro rata from day one of the programme. Schools may be reluctant but should be advised that if they opted for a permanent exclusion they would still face this charge. This is why Co-ordinators will use the Fair Access Process for agreeing the admission so that at least schools feel that the allocation is being made in an open and transparent way.
8. If an out of county child in residential care in Leicestershire moves from one Care provision to another within the county SEIPS should seek to minimise disruption to the education and care provided for the child. If the continuation of an enrolment at a school, the active

support of a SEIP staff team and placements in AP are in the best interests of the child and can be facilitated without significant extra expense then the original arrangements should continue.

<sup>1</sup><https://www.leicsseips.org/less-frequently-used> (link to Government Guidance)

#### <sup>2</sup>Children looked after by a local authority

7.— (1) This regulation shall apply to the exclusion of any other regulation which would otherwise apply to such a person.

(2) This regulation shall apply in the case of a child who is looked after by a local authority—

(a) for whom a statement of special educational needs is maintained under Part III of the Education Act 1993, or

(b) who is registered as a pupil at a special school, or

(c) who is a patient in hospital, and receives education either in a special school established in a hospital or education referred to in section 298(1) of the Education Act 1993 otherwise than at school, or

(d) who is a further education student.

(3) Such a person shall be treated as belonging to the education authority area which coincides with or includes the area of the local authority which looks after him.

<sup>3</sup>(exclusions policy) Schools funding 2017 No.1185 Education England, The school and early years finance (England) (No. 2) Regulations 2018 – Specifically Chapter 2

#### STEP BY STEP

1. Get to know who is arriving in your area into Care from another local authority by keeping in contact with Children's Homes.
2. Check when you receive any Fair Access Referrals from School Admissions to see whether the child fits into this category.
3. If your schools want you to do so use the Fair Access Process to select the best place for the child – but
  - a. Remind everyone that this is not “true” fair access – the school selected has to take the child in all circumstances
  - b. Remind everyone that the child's needs are paramount, it isn't wise to expect the decision to be made on the basis of who's turn it is.
  - c. Remind everyone that the responsibility for placing the child on roll rests with LLA School Admissions team and the school itself – the Partnerships can only advise.
4. Do not automatically assume that the Partnership will play a role in the provision for the child. The school must go through your normal procedures to refer for additional support. But makes this happen quickly – you will already have a good idea about whether the child will cope in school.
5. If you are involved in planning provision talk to the Social Worker and/or Virtual School Head from the corporate parent local authority from the outset. In your conversation:
  - a. Make it clear that if the cost of the provision exceeds the Average Pupil cost + £6000 you will be asking for the home authority to meet the excess.
  - b. Make it clear that you will be seeking the Pupil Premium Plus to help.
  - c. Ask the VSH whether the home authority will meet transport costs to and from provision.
6. If the VSH does not agree do not delay your plans for the child. Report the issue to the Local Authority (at this stage let AS know and he will tell you the next step.)

AND

7. If a child in care in Leicestershire from another local authority moves from one care setting to another in Leicestershire you can advise that the child moves from the roll of one school to another.
  - a. You can advise but cannot instruct
  - b. **Don't move roll unless it is necessary to meet the interests of the child.**

Revised Aug 2021