

Additional Support Needs Service**Report by: Mary Smith, Director, Education, Communities and Economy****1 Purpose of Report**

To update Performance, Review and Scrutiny on the demand for Additional Supports Needs places at Midlothian schools and provisions for Children and Young People who live outwith Midlothian

2.0 Background

2.1 Discussion was held at Performance Review and Scrutiny meeting of 5 June 2013 regarding demands placed on Midlothian as a result of the Education (Additional Support for Learning)(Scotland) Act.

2.2 The Education (Additional Support for Learning) (Scotland) Act 2009, as amended, enables parents of children with additional support needs and young persons with additional support needs including those with co-ordinated support plans, to make requests for their children or themselves (as appropriate) to attend a school outwith the local authority area in which the child or young person lives. The jurisdiction of the Additional Support Needs Tribunal was extended to enable it to hear appeals on refusals of such out of area placing requests by allowing a referral to the Tribunal of a placing request decision by an authority which is not the authority responsible for the child (or young person).

2.3 The Additional Support Needs Tribunal Scotland (ASNTS) overturned the decision of the authority and required us to place a pupil from outwith Midlothian in Saltersgate by the end of May 2013 in terms of section 19(4a)(b)(i) of the Act. The statement was issued to parties on the 9th May 2013.

Our external legal advisor met with our Midlothian lawyer on 14th May 2013 to discuss the possibility of an appeal. The outcome of this meeting was that it was considered there was no chance of success on the substantive argument, as the calculation of reserved places was not sufficiently robust.

2.4 As an outcome of the Tribunal's decision we will address the following points and observations drawn up for our consideration from our external legal advisor:

- Ensure that we state clearly in all documentation/website that Midlothian is the catchment area for Saltersgate

- We will need to explain clearly the disparity and inconsistencies between the School Estates Statistics for 2005 and 2010 which suggest that Saltersgate has a capacity to accommodate between 130 and 165 pupils and the figures that we are seeking to rely on from our internal data. We need to have these figures analysed and an agreed position reached on figures for the last 3 to 4 years. We need to keep an accurate record of this information for the purpose of future placing requests
- We need to reach a decision about the number of places to reserve and when decided this should be documented and adhered to.

3.0 Actions

In summary the authority needs to tie all the relevant pieces of information together and be more specific. In the past Education and Children's Services have prided themselves on being able to be flexible about numbers in order to meet the needs of our growing and changing Midlothian population but this judgement highlights that there is a need to record accurate data about school numbers and decide on the upper role and reserved places kept for incoming Midlothian children and young people.

In addition to the above actions we are also raising the issues in relation to outwith authority requests with national organisations such as Cosla, ADES and ADSW.

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Background Papers:

None