

Minutes of Schools Forum

25 January 2024

-: Present :-

Sarah Tomkinson (Chairwoman), Stewart Biddles, Stuart Bellworthy, Mike Lock, Clive Star, Jim Piper, Tim Stephens, Jayne Jones, Alex Newton, Tamsin Summers and Laurence Frewin

(Also in attendance:)

1. Apologies/Changes to Membership

The Forum welcomed Sarah Tomkinson in her new role as Chair of the meeting. Sarah introduced Sam Walton from the Devon Audit Partnership, attending the meeting to talk about Safety Valve reporting.

Apologies were received from Steven Hulme and Steve Margetts.

Sarah explained that the Forum still has a vacancy for a Primary Academy representative to join, with the agreement of members Rachael will write to schools one final time asking for representation.

2. Minutes of the last meeting

Minutes of the last meeting held on 23rd November were then discussed. Rachael provided an update on the Overview and Scrutiny Board that took place on the 7th December. It was pleasing to note that elected Members wanted more detailed actions being taken forward on the provision and support that is available across our local area for mental health services and will be a focus for children's overview and scrutiny.

Tim asked whether the cumulative underspend in Early Years would be reviewed at the end of the financial year, as this was not recorded in the minutes. Rachael agreed to discuss this as an agenda item in March.

Minutes of the meeting were agreed as a true and accurate record.

3. Election of Vice-Chair

At the last meeting, members were asked to consider becoming Vice-Chair, we received one nomination, for Stewart Biddles, so Sarah put it to the vote. Members were unanimous in agreeing to Stewart becoming Vice-Chair.

4. Schools Forum Terms of Reference

Members were shown the Terms of Reference for Schools Forum. Rachael felt it important for everyone to be clear on their roles and responsibilities and the delegated powers of the Forum. It was agreed that more detailed guidance from the DfE handbook should be included within the Terms of Reference. Members also asked that the ToR be included as an agenda item on a yearly basis, noting that they had not been updated since March 2021. Rachael and Sarah agreed to this, explaining that it would be best to schedule this at the first meeting of each financial year.

After looking at the membership of the Forum, Rachael decided to try one final time to recruit a member from the Grammar schools, and will write and be really clear to colleagues that they wouldn't have a representation on the school's forum moving forward unless that seat is filled. As for the vacant Primary Academy head teacher, both Stewart Biddles and Stuart Bellworthy agreed to speak to their colleagues to find a representative.

Stewart made the point that some of the language used in the ToR regarding a Chairman and Vice-Chairman is now a bit outdated and should be changed. It was also requested that the notice period of meetings be extended as members felt that 2 weeks notice was not sufficient. Rachael and Sarah agreed to both of these changes.

5. Financial Report

Rob Parr presented the latest financial report. The main areas of concern in terms of the safety valve moving forward are on the independent special school fees and other packages of support for EHCP. Rob explained that this year they are offset by some sizeable underspends, for example joint funded placements which is the education element of our residential placements. But because our residential placements are much reduced that's impacts on the education side. There is also a large underspend on MTS as it's not running in its intended capacity. So that's £200k relating to last year and £150k for this year. So in effect they're being offset to a degree, but if those underspends don't arise next year, then potentially we are under pressure unless our numbers start to fall.

One of the main changes between this position and November is our recoupment with other authorities (mainly with Devon). We have a few pupils in other authorities, but mainly with Devon and that's been an ongoing negotiation relating to charges and pupils relating to last financial in and this financial year and they've almost just been agreed, putting the overspend up between November and January. Despite this, Rob clarified that we are still within our target in terms of what we set the safety valve at.

Lawrence asked for clarification on what business support and business intelligence meant, Rob explained that this was staff teams that support the DSG and all the functions within DSG, for example data analysts. Lawrence then asked about the education element of residential placements. Rachael explained that we only want

children to be taught in residential provisions away from Torbay if that is exactly what is required for their care or education needs. The LA historically has had a high number of children that had gone into residential provision. So it is a deliberate decision to actually review the children that were in residential provision and make sure that actually they could be brought back further to towards their community but also receive support through that, that fostering network or through connected carriers and things where that's appropriate as well. So it is something that the local authority doesn't see rising in the future. It's a position that we want to maintain low residential numbers. Residential provisions are only used where there are really extreme examples of children needing different types of provision that that could not be applied in a different way. It's our published mission within our social care sufficiency strategy.

Mike Lock then asked a question on recoupment, and how accurate the process is now for charging authorities. Rob explained that whilst it is still in the process of being established, he is confident that the mechanisms in place are ensuring that Torbay is getting the correct monies paid.

Rob then went on to discuss the comparison of initial DSG funding between 2023/24 and 2024/25. that just shows across the schools block, central schools block, early years, high needs etc. and the amount of additional funding we're getting through the DSG. A large chunk of that is obviously due to the expansion of the early years provision, which we'll come on to on the on the next item. High needs has gone up by £900k. That is in line with what we are assuming in our safety valve, so no massive surprises there, which is good.

Members noted the position of the LA budget and agreed to review the safety valve update report and make recommendations to ensure future progress enables the budget position to be held and improved during the financial year.

6. Early Years Funding report

The Forum then heard from Rachel Setter, Divisional Director of Learning and Partnership Hubs, who presented a paper on the changes to Early Years funding moving forward. paper is looking at the uplift of the current EY entitlements and the expansion to the two year olds from April 24 and children under nine months from September 24 for working parents. The main points around the expansion means that the current retained 5% for staffing and systems costs would be considerably increased. Therefore, we've reduced that down to 3.5% with the aim to work towards reducing that further to 3% as the expansions increase in the following financial year. We have kept the ALFI payments and disadvantaged payments at the same rates and as detailed in the proposal around the ALFI payments. The reason behind that is to include early years provisions that are within schools to be able to access that they haven't been able to access historically and also to relieve the burden from the high needs block. So although we're proposing that we retain that £100k for this financial year while we monitor the demand and the potential increase on the ALFI budget, the aim is to then not need the £100k in the future, which will obviously reduce the pressures on the high needs block.

Tim asked whether are we actually going to pay out deprivation payments on the basis of those who are those eligible 2 year olds who live in the appropriate post codes – Rachel clarified that this was the case. Tim also asked whether we could simply take the £45K out of this year's underspend and go down to 3% now, meaning there will be no further change in future years. Rachael Williams explained that if we are planning to add to our debt, then forum members would need to identify where they don't want to have £45k worth of spend taking place between now and the end of March because we cannot go over our safety valve agreement. We've got an investment that will come back as a result of not going over our financial window that we have promised to the ESFA, so Forum have got the decision there that actually we'll have that inward investment to write off the deficit position. So if that decision was taken, then £45k worth of spend in the higher needs block would need to be identified as a saving and we'd need to be able to enact that straight away to not put us in that position by the 31st of March.

Lawrence raised concerns around the additional funding for 2 year olds and where that extra money would come from, and whether it means we can still support the same numbers in proportion. Rachel Setter said that the reasons for not moving directly to the 3% and keeping the £100k is so that we have this year to really monitor and consider what that demand will be and if it is reaching the right people.

Following discussions, Sarah asked members to vote on the proposal to retain 3.5% to pay for systems (Synergy) and staff costs, including Early Years Finance and Business Manager and Early Years Advice and Guidance Services. Voting was as follows:

For: 9 *unanimous*
Against: 0
Abstain: 0

7. Safety Valve Summary Update report

An update report on the Safety Valve was then showed to members. Rachael said that this report was shared with the ESFA on the 15th December, so reflects the current budget position as reported at Novembers Forum.

The first condition of the grant is around our special school numbers and really that parental confidence within mainstream we detail for the Education, Skills and Funding Agency. In terms of our numbers overall, we have managed and controlled those numbers throughout the year and that's reflected in the financial information and the report that Rob has provided to us today as well.

Our special school trajectory was in line with our agreed budget position with the ESFA. Rachael explained that there is a significant pressure, we have just been through the January SEP panels and I know colleagues that have taken part in that process have found those decisions really, really challenging regarding the numbers of applications that are certainly coming through and the demand for special school placements as well compared to those that are available. But we have managed within the numbers that we have stated to the ESFA, we are going to be potentially bringing back a proposal for Schools Forum around how do we

support some of those children that may not have been given a special school placement because that's equally as important as, as also managing the numbers at those schools as well.

Rachael also mentioned in this section that we are seeing an increased number of tribunals and obviously undergoing also mediations with families around some of those decisions as well. We are being really robust in our tribunal process, responses are around mitigating the decisions that we feel are right in terms of our refusal rates, but also the decisions we're making around efficient use of resources in our local area as well. But members of forum should note that if looking at overall tribunal statistics, about 94% to 96% of them go in parental phase. We also are heavily involved in tribunal process with our special schools for Devon tribunals as well and that's placing pressure on our on our system as well. We have met with our DfE colleagues over the tensions that exist between our neighbouring authorities and us and our ability to respond in the same way for children around those actions as well. There is, however, a commitment from the DfE to provide us with a consultant to facilitate further that work across our neighbouring authorities. We are meeting that consultant at the start of February to think about the scope of that. So in this area, we have rated ourselves still amber for this because we are delivering activity in line with our original DSG management plan and in line with our safety valve condition.

Lawrence asked for a little more clarity on the legal fees of tribunals, Rachael agreed that this needs reporting and agreed to build this into the next financial report.

The next grant condition was around SEN practise inclusive practise and workforce development and in this section Rachael listed the things that have taken place over the last quarter around the SEND bus. Which has now been to most schools and provisions as well as to the Early Years conference. That reached a lot of families and lots of practitioners, which I think has helped to spread the message but still considerable aware of work to work to create that understanding of those aspects as well.

What we have done is also created additional training opportunities as well and we've also have listed in this section the things that are being delivered currently around autism education in schools, in secondary as well. I'm delighted to inform people here and it's not out yet, but we have just put in an expression of interest with health colleagues for a primary neuro diversity programme that would be across the peninsula as well that would be funded by NHS. So that's going to be called the PINS programme and would be something equivalent for primary sector that they have done for the secondary sector under AET. So there'll be more information following once we know more ourselves as well regarding that.

We've done a lot of resource production within this section around train the trainer models for SENCOS to be able to use within their schools as well, including also looking at self-evaluation documents for schools to use to make sure that the graduated response is understood beyond the role of the SENCO or senior leaders within schools as well.

In terms of the grant condition 3.3 for the Education, Health and Care Plans and that graduated response, we continue to rate ourselves as red in this section. The reason for the red rating is really the numbers of requests for statutory assessments, which still remain significantly high within our local area.

We look at and we hope to see this starting to come down over a period of time. What we do know is requests for statutory assessments that comes from parents and they come from schools and they come from professionals as well. We do also know that sometimes the request for statutory assessments that are coming for school are also linked to parental pressure to submit some of those requests as well. We've got some evidence around that, and that really is an indicator of parental confidence about what can be provided. One of the aspects that we're looking at is around the ILDP, the Individual Learning Development Plan that sits below the having an EHCP and getting that in a more consistent way within Torbay so that people can talk about the ordinarily available provision and the provision that's put in place for children. A lot of the refusals are around people not having evidence of interventions and support provided prior to putting in those requests for statutory assessment, so it's wasted work for the SENCO it's wasted work for the teams and actually some of that work would be better served in the ILDP forum and doing some of those earlier provisions as well. But it links also back to people's understanding of those different aspects within those graduated response documents. Our Educational Psychologists are also offering support for those assessments and tool kits as well, within the graduated response, so that when those Requests for Statutory Assessment comes in, we're getting a shared understanding of need when those requests. Rachael said that remains an area of concern as our issuing of plans is still aligned with previous years, so although we're having an increased rate of requests we are being really, really robust in our decision making and obviously offering next steps meetings for colleagues as well.

Lawrence asked whether a suggestion from the last Forum about having the next steps meetings in advance of an RSA had been looked at yet. Rachael said that although this is still being looked at, it would require additional resources which we do not have at the moment.

Stewart then asked if data was available on what refusal rates look like from Schools and Parents, Rachael said that this data was available and can be shared with members at a future Forum.

Sarah asked whether the LA has heard back from Health colleagues following the pre notice action letter that was issued back in November. Rachael said that following a meeting with Health in January, there is now a greater understanding and position that actually we do need to create the pathways and processes around the funding of EHCPs. So there is a trajectory moving forward where there is now a position at the NHS and ICB that they recognise this is a piece of work that will need to be funded moving forward. Penny Smith is the new chief nurse and is now attending SEND meetings.

Rachael then moved on to condition 3.4, around children placed outside of area. We have maintained our independent placement overview panel. So everything that is above a spend of £30k goes to an IPOP decision making process and as you can

see there we have certainly maintained our numbers and that's despite significant pressures and demands that come in for children to be placed in ICPs as well. Parental preference for ICPs is significantly high as well in in our local area. It was pleasing to note that we are maintaining our position on that when we have the governance in place to do that as well.

Condition 3.5, building confidence within the parental community, was then discussed by Rachael. what we're seeing from parents and carers is that's not being reported in a in a more positive way than it was previously. So we really wanted to hold the mirror up to that and you know, talk with parents and carers about what difference does this make and what would it look like within our provisions as well. So we have scored that one as a red at this current time and we have taken action through the alternative provision strategy. We're looking at sufficiency of placements.

Parental confidence is, is a lot of the things that drive some of those demands that we're seeing come through our system. Members will also be experiencing some of that back with your colleagues in schools, where parents have expectations as well around what will be provided. That also fits in with the numbers of children that are also going Electively Home Educated for example. And coming out of the education system as a whole as well. So we have rated this as read because there's lots of indicators that actually this is not going in the in the direction of travel that we would want it to as well.

Mike Lock asked whether we are expecting instant results when actually this is something that will take time to build. Rachael said that there are indicators that things are going the opposite direction than some of our intended actions, pointing to the increase in EHE numbers as a result of increased parental anxiety.

Condition 3.7, relating to the implementation of our transitions panel for Post 16, was then discussed. Rachael said that the LA have been doing and continue to do a huge amount of our ceasing activity within this area, we have 41 ceases in progress that are still coming off the system, looking at the trajectory of numbers that we have at the 31st of March. So if all of the plans are issued or if we continue to issue the plans at the rate we have been issuing them and also do our ceasing work, we are looking at being probably 51 plans above our ESFA target at the end of the year. So there's still more work being done by the team around those numbers of plans and how do we get to that that position, obviously the ceasing activity has continued at the rate that it was previously, but actually the Requests for Statutory Assessments coming through the door hasn't slowed up in line with our plans. So we're looking to be about 51 above target, but we're doing everything we can to reduce that as well.

Lawrence wanted it noted that It's a really constructive approach that Rachael and the team have been taking with him on lots of different things and it's slowly having a really positive impact and helping us to do things better as well.

Rachel Setter gave an update on the family hubs. Within the home learning environment there is support to early year settings to deliver the early talk based programme, and we also then have the home learning environment lead, who does

the outreach work, supporting children that are not in an early years provision so that we're making sure we're supporting both those groups. The early language consultant role has just been recruited to and their main focus will be to work with health colleagues and family health colleagues in the 0-19 partnership to develop those really early speech and language pathways and bring it all together. So we know that there are lots of activities and groups happening, but having a really clear pathway for families to be able to access and know which points they can access and what support is relevant for them and their child's needs. Obviously the family Hub funding is only until March 2025, but we're confident looking at the budgets and kind of being a bit creative is that we can continue those roles post March 2025. So it isn't something that we'll drop off that we'll be able to have that sustainable these roles in and the pieces of work continue post March 2025.

Rachael then spoke on condition 3.8, Implementing the coproduced new graduated response for Social Emotional and Mental Health (SEMH). This has been moved to red on this occasion because we are seeing an emergence of children's needs beyond that which we have seen previously. We know that the number of requests that are coming through for SEMH as the primary area of need is increasing as well. So though we are doing ceasing work in this activity we have placed this as red because this all falls under some of those health conversations around actually how do we get a spectrum of support and a pathway of provision for children with SEMH. So this comes back to how do we jointly Commission with health and also how do we fund some of the resources within EHCPs that have SEMH as the primary area of focus as well so we have selected to declare to the ESFA at this time that this is an area of concern and is also then a significant area of focus coming out of our overview and scrutiny meetings as well, because we have to develop these pathways and we have to develop these provisions that are Co aligned with what can be delivered across all different agencies. It's not about the just the expansion of CAMHS, is it in this way. This is about having a pathway of support up to specialist services when they are required.

8. Alternative Provision update

Rachael gave a verbal update on Alternative Provisions. Members were informed that meetings are continuing and we are looking at the alternative provisions and what is being used and we've got all of the data and finances attached to that. But we've also taken that wider in terms of sense efficiency overall as well. So that we're putting all of the intelligence in in one place.

We have done that now for education other than at school as well. So those children that are not on a school role and actually what's our spend in relation to that as well and we are doing work on the primary areas of needs behind those as well. So bringing all of that into kind of a sufficiency statement and understanding so that we can look at our spend over that that area. There is a further meeting of that group this afternoon an internal one looking at the how that work has progressed to bring it all back together. Rachael explained that following Novembers Forum, Laura Greenland is in the process of putting this information into a written report, which will be shared with Forum members in a later meeting.

9. Medical Tuition Service update

we have been handing the budget to the medical tuition service and then recalling the budget for the spend that doesn't incur, which has been factored into our financial reports as well. So we are not allowing the Medical Tuition Service to fill gaps and voids that come into the service because we recognise they are not delivering what they are saying because of their lack of registration at this time. So wanted for members to be aware of that. So we're managing the costs associated with the MTS at this moment. There has been an in depth analysis of the children that have attended the medical tuition service from 2016 all the way to the present, looking at what their primary area of needs were when they entered the provision, where did they come from, how long did they stay at the medical tuition service and what was the length of their stay. The future direction of travel would indicate that we don't need a 50 place school to meet the needs of our medical pupils, but we do need some group based provision. We do need some a school of some nature, but we also then need a community offer that sits alongside mainstream schools to be able to deliver provision for children that are not able to attend school due to their medical needs at this time. So we have met with the Department for Education and we have met with our barrister to understand what processes we can use to get a registered provision of a different nature. These talks are progressing and we will be able to confirm a decision once the DfE and ourselves have looked at that as what are the options for delivery moving forward as well. Rachael acknowledged that it feels slow but stressed that we're taking every single step to get to the place where it can be a registered provision understood and recognised by all key players as well. Rachael explained that what we're not going to do is return to have a Medical Tuition Service that actually was subsuming education, health and care plans because it should never have done that in the 1st place. It shouldn't have been a special school, but it's understanding that need at this time.

10. Items for next meeting

- SEND statistics on transitions budgets
- Safety Valve update
- Allocations

11. Future meeting dates