

Minutes of the Schools Forum

12 October 2023

-: Present :-

Stewart Biddles (Chair) Primary Academy Rep; **Tamsin Summers**, Secondary Academy Rep; **Tim Stephens**, Primary Academy Governor; **Beth Woodward**, PRU (substitute for Steven Hulme); **Mike Lock**, Special Schools Head; **Jayne Jones**, Early Years Rep; **Sarah Tomkinson**, Primary Maintained Head; **Laurence Frewin**, Post 16 representative

-: Also in attendance :-

Rachael Williams, Assistant Director for Education, Learning and Skills; **Nancy Meehan**, Director of Childrens Services; **Rob Parr**, Principal Accountant; **Dan Hamer**, Head of Vulnerable Pupils; **Laura Greenland**, Strategic Commissioner for Education; of SEN; **Michael Freeman**, Clerk

1. Apologies/Changes to Membership

Apologies were received from Jim Piper, Steve Margetts and Alex Newton and Steven Hulme. Beth Woodward of the Lodestar Academy attended in Steven's place.

Members welcomed Laurence Frewin and Tamsin Summers to their first meetings as representatives of Post 16 and Secondary Academies respectively.

After serving as Chair for a number of years, Stewart gave notice of his intention to step down after today's meeting. Whilst he will be happy to attend as a member in future, he felt that the time was right to hand over to someone else to lead the Forum moving forward. With Lisa Finn also resigning her position as Vice-chair at the last meeting, interested parties in either role were invited to contact the clerk of the meeting prior to November, when a vote will be held.

Action - members interested in becoming Chair or Vice Chair to contact clerk prior to the next meeting. For informal conversations members can also contact Rachael.williams@torbay.gov.uk for further information.

2. Minutes of the last meeting

Minutes for the meeting held 22nd June 2023 were agreed as a true and accurate record.

3. Financial Report

Rachael shared with Forum the latest financial report, detailing the latest position on the overspend on the DSG (Dedicated Schools Grant). It was pleasing to note that the current projection is a £929k overspend, down from £1.292m at the end of the financial year. Members were asked to note that this is the known spend in the system at this current time, and that an additional placement or two could create additional demand on the budget.

After discussion around the individual budget lines, the Chair asked for any questions from members. Tim asked whether the recent changes to the Early Years team has been reflected in the report, Rob confirmed that this has been factored in.

Rachael then explained that there had been an error with the DfEs data published in July, and therefore an additional financial paper was sent out to members separate to the original agenda, detailing the national changes. Stewart asked whether this would have any impact on the Safety Valve in terms of predicted funding – Rob clarified that it only affects the Schools Block, and that nothing has changed on Central Schools and Higher Needs. In terms of Special Schools, it was noted that the principles agreed at Forum for the upshift in Special Schools has been applied at the same percentage as mainstream schools.

Members thanked Rachael and Rob for the update, and agreed to the recommendation to note the financial position of the Local Area DSG budget, 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.

4. Safety Valve Update

Rachael then gave an update on the Safety Valve progress. The LA had to report to the ESFA (Education, Skills and Funding Agency) on the 15th of September, around the position of the LA in meeting the targets within our safety valve as described at previous Forums.

The main indicator that the ESFA is mindful of is our overall budget position and we were able to report in September that our budget position was aligned to where we had anticipated that it was going to be in our safety valve agreement. We then also were able to provide them with an overview position of the numbers of EHCPs (Education, Health and Care Plans) within the system as well. And that demonstrated that although there are challenges within that process and challenges in the overall numbers, we are still seeing the numbers being fairly maintained within Torbay at this time, and they are reduced from our starting point.

A progress report was shared with members, and Rachael detailed some of the key indicators that remain a significant challenge. What we recognise at the moment is that we're still having a high number of requests for statutory assessment coming into the system above and beyond that we would hoped to have seen through the introduction of our graduated response, whilst recognising that it is early days in

terms of people understanding what is universally available provision and what is graduated response of support. So we are seeing a quite still a high refusal rate compared to the numbers of requests that are coming into the system and what we'd want to see in time is that was picked up through that graduated response and the SCN notional budget. Alongside that there's some really good news where a plan is not agreed, as next steps meeting has been put in place to look at how need can be met through universally available provision and SEND. Rachael was pleased to note the positive outcomes coming out for families about how needs are being met as well with very few of those moving through to actually then require a statutory assessment moving forward.

The other key area of concern is around the health contributions and that remains one of our key focus areas. Rachael stressed to forum that we are pushing at the very highest level that Health need to engage and make available a budget for joint commissioning within our local area. Members were asked to participate in a recent DfE monitoring visit on joint commissioning as well and it's important that we get a budget identified and a process within our local area to be able to do that. Rachael explained that we continue to calculate and keep a running tracker of the health funding that should be available within our plans, but we're not issuing that money through the Higher Needs block as we previously did.

Nancy then informed Forum that partnership summit meetings have been held over the last four months with our chief executive and equivalents within Health. The LA has very clearly said to them that unless they come to the table with some understanding that they need to fund some of the requirements, We will be putting together a pre action letter through the LA's legal team to actually place on record we will start to take legal action if they don't deliver some of the funding that we absolutely know they should be delivering. Nancy will be meeting with Health colleagues again in a couple of weeks to reiterate this. The pre-action letter is being drafted with the agreement of the Chief Executive and will be sent to ICB shortly with a view to getting a response before Christmas. Members did however note that there have been changes within the health colleagues through the ICB and certainly we've got better engagement with them recently where we've pushed on other elements of funding.

Laurence asked what the barrier is to Health contributing. It was explained that through open discussions with Health colleagues there has never been a budget for these contributions. Nancy explained that this is a problem nationally and is not specific to Torbay. With that in mind, Laurence also raised the possibility of reclaiming backdated amounts. Nancy clarified that the LA is exploring this, but it is too early in the process to say whether or not this is an option.

The Chair thanked officers for the update, noting it was pleasing that the LA is having these robust conversations with Health colleagues. Members requested we invite them to the next Forum meeting to discuss further.

Action – Officers to invite colleagues from Health to the next Forum meeting.

5. Element 3 Funding

Rachael shared with Forum the findings of the Element 3 funding pilot that has been implemented during 2022 to 2023.

The overarching feedback from the pilot was that conversations were much more focused on the needs of the child and that the plans that we currently have can be quite outdated. It was felt that our annual review processes would need to change along with our writing of our EHCPs, to be able to then make sure that the needs-based tool that would calculate the funding would actually be fit for purpose.

On an individual basis, there were some significant gains where children's needs were higher than they had been set within the EHCP. And then some where children have made significant progress and schools were saying to the SEND team we are no longer providing the level of provision that is included within the plan where those funds actually went down. Rachael thought there were roughly an equal amount of plans that went up as an equal amount of plans that went down, but overall the budgets that were used in the pilot model did indicate that there would be a reduction in the amount of funding allocated to schools. However, it was explained to members that potentially some of those savings would not be as real as they are in the pilot process, because we would be using the uplifted model for the implementation, reflecting current support staff pay (the current model is based upon pay levels from ten years ago).

Stewart asked for clarity that the Element 3 banding was an LA decision, not a choice for discussion at Forum, rather Forum was being asked to make a decision about the *implementation* of the banding model.

Rachael explained that this model will be taken forward using the funding matrix that was instigated during the pilot. The LA is planning to meet with Islington again for a further meeting, to actually agree that funding matrix for Post 16.

Three options were then presented to members for rolling out the scheme. The first option was to use the new formula for each Annual Review that received in 23-24, although it was felt by all that there was insufficient capacity at the moment to fully enact this.

Option 2 was to use the new formula for every phase transfer plan being amended for 2024 entry and new EHCP's. with a view to a full roll out from 2024 onwards.

Option 3 was to use the new formula for specific and targeted year groups where Element 3 is exceptionally high, or RSA rate is higher than the average, alongside the new formula for Phase transfer and the issuing of new EHCP's, before a full roll out from 2024 onwards.

Before moving to a vote on which option Forum would like to agree to, Rachael invited questions from members. Laurence asked which year groups would be most affected by choosing option 3 – Rachael clarified that years 5 and 10 are the focus of phased transfers.

The Chair then shared a letter from TASH (Torbay Association of Secondary Heads), sharing their concerns regarding the tone of the element 3 paper. Whilst assured it wasn't about saving money, each pilot summary has a headline of the saving made with the exception of one small plus. So there are questions regarding what is going to happen to that money that has been saved given the plan is for this to be cost neutral, will it still go to schools or is there another plan for this sum of money?

Rachael explained that if any savings were to come out of the implementation, it would have to go into our deficit position. We cannot be reinvesting money back that doesn't actually exist within our system. The pilot never had any financial reductions attached to it. The consequence of doing the pilot has actually demonstrated that there may be reductions that can be made based on the needs of the children that we've looked at and the provision that's been put in place by schools. Implementing this goes back into our deficit until we're in a place to be in a surplus and then we can have different conversations at school forum about reinvestment.

Stewart pointed out to members that the idea of the pilot scheme was about looking at what's being done and making sure that it is more impactful, and that it should not be seen as a money saving exercise. Indeed, some colleagues from schools that will be more affected financially were in agreement that it was the right thing to do i.e. It was about putting the money in the right place for the right children.

Laurence asked whether some further modelling could be done around which schools are going to be significantly affected, and what the implications could be. Rob and Rachael were in agreement that this could be done and shared with school colleagues at a later date.

After further discussion, members were asked to vote in favour of one of the three proposals. Voting went as followed:

From September 2023 we use the new formula for each Annual Review that is received in 23-24 and recalculated Element 3; 0

From September 2023 we use the new formula for every phase transfer plan being amended for 2024 entry and new EHCP's, then full roll out from 2024 onwards; 0

From September 2023 we use the new formula for specific and targeted year groups where Element 3 is exceptionally high or RSA rate is higher than the average alongside the new formula for Phase transfer and the issuing of new EHCP's then full roll out from 2024 onwards. 9 **(Unanimous)**

Members were thanked for their vote, whilst recognising it was a difficult decision to make it was felt that this option was the most equitable for all parties moving forward.

6. Alternative Provision Strategy

The Forum then welcomed Laura Greenland, Strategic Commissioner for Education, who shared the work of the Alternative Provision steering group. This has been established and is attended by a wide range of partners to ensure that what is developed meets the needs of the local area. Attendees include representation from SEND, social care, health and education and AP setting colleagues. The parent carer forum is also involved, and work is taking place with the young person panel to ensure their voice and views are embedded. Work is very much centred on what the picture within Torbay is at the moment, but also looking at what's happening within our neighbouring authorities and nationally as well.

Laura explained that a stakeholder feedback survey is due to be circulated next week, which has been developed with the support of the Group – there are separate surveys for APs, mainstream/special schools and other professionals. This is to ensure that we gather as much information about the use and experience of AP to enable us to consider the best way forward. Initial feedback is already highlighting the need to carry out sufficiency analysis in the use and demand for AP, and also the vital requirement to ensure that all commissioners using AP are not unintentionally creating a number of unlawful schools by the increased use of unregulated APs.

Tim asked whether AP providers will be asked to sign up to the SEND pledge, Laura said that this will be an expectation.

Rachael asked members to consider the suggestions which arise from the AP Steering Group, which may have the potential for financial options and decisions to improve the access, use and quality of the AP sector within Torbay.

Members thanked Laura for her time, agreeing to the recommendation to support the work of the steering group and development of the AP commissioning strategy, as well as to feedback to their respective school sectors.

7. Scheme for Financing Schools

Rachael presented to members the latest Scheme for Financing Schools. It was recognised that the LA has previously made tweaks to the scheme year on year, but that now was the time for a fundamental review, to ensure that people have the right information around how we actually provide funding.

Rachael asked the Forum for representation on a small task and finish group to undertake this review, with the aim of presenting any findings at January's Forum. Members were asked to speak to Rachael directly if they or any colleagues were available to attend.

Action – Members to contact Rachael with candidates for the group.

8. Future meeting dates

- Thursday 23rd November 2023, 09:00
- Thursday 25th January 2024, 09:00
- Thursday 21st March 2024, 09:00
- Thursday 2nd May 2024, 09:00
- Thursday 20th June 2024, 09:00