

Exceptional Schools Forum Meeting Minutes

Monday, 1 October 2018 at 1.00 pm
Held in Mezzanine Room 4 - Tor Hill House, Union Street, Torquay, TQ2 5QW

Present

Mike Lock (Chair), **Steven Hulme** (PRU), **Jayne Jones** (Early Years Rep), **Adam Morris** (Primary Maintained Head), **Jim Piper** (Primary Academy Deputy Head), **Tim Stephens** (Primary Academy Governor), **Stewart Biddles** (Primary Academy Head), **Maurice Codd** (Primary Maintained Governor), **Lindsey Kings** (Secondary Academy Deputy Head), **Daneian Rees** (Secondary Maintained Rep), **Dan Hallam** (post 16), **Lisa Finn** (Secondary Academy Rep), **Julie Chubb** (substitute for Clive Star) & **Jayne Keller** (substitute for Roger Hughes)

Alison Botham (Director of Children's Services), **Rachael Williams** (Head of Education, Learning and Skills), **Dan Hamer** (Head of Vulnerable Pupils), Martin Phillips (Head of Finance), **Rob Parr** (Principal Accountant), **Dorothy Hadleigh** (Head of special Educational Needs), **Mike Freeman** (Clerk)

1. **Apologies/Changes to Membership**

Apologies were received from Roger Hughes and Clive Star. Jayne Keller and Julie Chubb attended in their place respectively. In Rogers's absence Mike Lock was chair of the meeting.

2. **Local Area Proposals for Achieving and Maintaining a Balanced Higher Needs Budget**

Rachael Williams presented to members details of the current financial situation. With the Forums agreement to vire funds of £365k, there is currently a negative reserve of £614k in the DSG. With further in-year pressures expected, the final budget pressure could potentially be around £3m.

The purpose of this Exceptional meeting was to address what actions the Forum needs to take to balance the budget and reduce costs over time, based on proposals considered by the Higher Needs Recovery Group (HNRG). It was explained to members that any proposals recommended by the forum would be subject to a formal consultation, including a full equality impact assessment.

Proposals are based on three principles, following recommendations from the HNRG and the independent audit of SEND practices in schools:

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Strengthening an inclusive and accountable culture

A Peer to Peer Challenge group has now been set up, giving schools a chance to share expertise and to work on a common understanding of behaviour thresholds. It was noted by members that the first round of these groups has been very well received by participating schools.

Following consultation with schools, it was noted that Fair Access Protocols have now been refreshed and are being adopted.

SENDIAS (Special Educational Needs and Disabilities Independent Advice Service) provide neutral advice for parents at the point of exclusion. After discussion, it was felt that an additional investment of £20k per year would enable SENDIAS to support all families (including those that do not currently meet criteria), and would enable Schools Forum to make considerable savings on future bespoke packages.

Vote - To provide additional provision to SENDIAS at a cost of £20k per year:

For: 8

Against: 0

Abstain: 5

The Forum then looked at the possibility of providing training and information to Governors on inclusion, which would enable governors to challenge permanent exclusions. A one-off cost of £30k would cover both staffing and the training resources required for this, and would also enable the LA to conduct a review in schools of how their element 2 funding is being allocated. Members questioned whether this cost would be ongoing, given the turnaround of governors each year. It was felt that a vote should be taken on a one off cost for this year, with further training being addressed at a later date if needed.

Vote - To provide training and information to Governors at a cost of £30k:

For: 6

Against: 0

Abstain: 7

Ensuring children and young people have access to alternative and bespoke provision

An exclusion recovery process is already being enacted by the LA, following recommendations made by Schools Forum in June. However, presently the LA does not recoup funding from schools when a child moves from mainstream into the Medical Tuition Service or to an alternative provision, effectively meaning that the LA is paying for the child's provision twice. Following discussions at the HNRG, it was proposed that the funding should follow the child, leading to an anticipated

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recovery of £650k. It was noted that any recoupment would not go back into the main DSG budget, but be used to mitigate the costs of some other Higher Needs issues.

Members queried the legal position on the use of the recouped money. Rachael informed members that the call for evidence only closed three months ago, and as such the legal position is unclear. Any actions agreed by the Forum would not be started until March 2019, once the Government white paper has been produced.

Vote - For LA to recoup funding from schools for pupils moving to bespoke, alternative provision or becoming Electively Home Educated:

For: 12

Against: 1

Abstain: 0

Members were reassured that the LA recognises that schools need time to budget and plan for this decision, and because of this a reduced rate of 50% will be recovered from Christmas until the start of the new Financial Year for the bespoke packages.

Members then reviewed the cost of alternative commissioned placements. At present, placements are commissioned on a spot purchase system, however it is proposed that block booking places at provisions at the start of the year could lead to a reduction in fees, estimated to be approximately 10% on average across all providers.

Members asked whether providers are open to this proposal. Dorothy Hadleigh reassured that the majority of providers spoken to are willing to work with the LA in finding a way forward, and the SEN team are asking providers to evidence the outcomes in provisions being commissioned.

Vote - For the LA to negotiate block bookings with alternative provisions with a view to reducing overall costs of packages:

For: 13

Against: 0

Abstain: 0

Members are in agreement to attempt this, whilst recognising the potential dangers.

The Forum then discussed the creation of Alternative Provisions within the local area. A new provision has opened in Paignton in September 2018, and Rachael informed members that the LA is exploring the possibility of opening a Primary age provision, to cope with the significant rise in SEMH needs for that age group. Dan

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Hamer has also been working with colleagues in Plymouth and Devon on a Free School bid.

These additional provisions would ease the pressure currently on Mayfield-Chestnut, and would also decrease the amount of Out of Area placements being used. This could potentially lead to a saving of £80k per year.

Vote - To create alternative provision within the local area:

For: 13

Against: 0

Abstain: 0

Rachael informed members that a joint funding panel is now in place with colleagues from Health and Social Care, with the aim of funding complex cases proportionally between all agencies.

Members requested details of the savings this would mean for Education. However, this partnership is in its infancy, and whilst too difficult to predict at the moment we should have a clearer idea of the savings in 6 months' time.

Ensuring the right children, achieve the right level of support, at the right cost

The third proposal discussed Requests for Statutory Assessments (RSAs) and the Issuing of Education, Health and Care Plans (EHCPs). It is recognised that colleagues in Plymouth are not experiencing the same increase in RSAs as Torbay, and are not issuing an increased number of EHCPs. Plymouth currently has a refusal rate of 40%, but has not seen an increase in tribunals. It was recommended that the LA utilises its partnership with Plymouth and invite them to sit on the RSA panel, to ensure we are applying thresholds appropriately.

At the request of HNRG members, officers were asked to model two options to reduce the cost of Element 3 funding. These models proposed a reduction of 15% in the Element 3 top up for each child, by introducing this at the start of the financial year, and the start of the academic year. Rachael warned members that these options carried a significant risk, as this is a reduction to funding given to an EHCP. There is also a precedent for other authorities having this decision overturned in the High Court.

Because of this, a third option was presented to members. Rather than top slicing from each individual element 3 top up, leading to a saving of approximately £260k, it was proposed that this figure be added to the virement application. This would spread the cost between all schools, and would present less of a legal challenge.

Members were first asked to vote on which of the options was seen as most viable:

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Option 1 or 2: 0

Option 3: 11

Abstain: 2

The Forum was then shown funding models for reducing Special School per Pupil Funding. The current funding position, with a 2% top-up as agreed at March Schools Forum, was modelled alongside reduced figures with a 1% increase in initial funding. This was seen to be in line with the EFA announcement of a 0.5% increase to the Per Population Element of the Higher Needs Block.

Vote – to accept a reduction in top-up values for Special Schools Funding:

For: 7

Against: 2

Abstain: 4

If all options voted on at today's meeting are actioned, It is anticipated that total savings would amount to £1.3m next year, leaving a virement figure of £1.1m. The LA recommends that the virement application amount is adjusted to 1.79%, to include what could not be saved under the Element 3 proposal.

Members were shown two charts modelling the impact disapplication would have on individual schools. Both charts show that the funding ratio for Primary and Secondary has been maintained in line with regulatory guidance.

Before discussing which of the two options to take going forward, members were asked whether they would support disapplication. It was recognised that should members vote against this, the LA could still go ahead without Forum's approval.

Vote – for members to support a disapplication of 1.79%:

For: 6

Against: 5

Abstain: 2

With members supporting disapplication, a decision then had to be made on which of the two options modelled to use. Members raised concerns that the National Fair Funding formula delay has created further instability. A phased implementation was recommended, recognising that some schools have got further to go to reach their Minimum Funding Guarantee. Further modelling was requested, using the drivers already agreed by the Forum, whilst ensuring some minimum funding. A Working Party was set up to decide on which option to put forward for Consultation. Stewart Biddles, Adam Morris, Lindsey Kings and Lisa Finn agreed to meet this week prior to the Virement Consultation being launched this Friday (5th October)

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Action - Rob Parr to model further options and submit to Working Party for Decision.

- **Working Party to recommend option to from part of Virement Consultation.**

3. Items for next meeting

- Financial Report
- Higher Needs Recovery Group
- Audit Action Plan Group
- Report on High Cost Placements – Dorothy Hadleigh
- Discussion the possibility of special schools' allocations being reduced to 17/18 levels

4. Future meeting dates

- Thursday 11th October, Mezzanine 4, Tor Hill House
- Thursday 29th November, 4th Floor South, Tor Hill House
- Thursday 17th January, 4th Floor South, Tor Hill House
- Thursday 7th March, Mezzanine 3, Tor Hill House

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