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| --- | --- | --- |
| **Members:** | Peter Martin - Present | Kirstin Barker - Present |
|  | Richard Warnham - Present | Jane Shields – Apologies sent |
|  | Kim Gunn – Apologies sent | Julia Harris - Present |
|  | Paul Jackson - Present | Tim Williams - Present |
|  | Steve Avis – Apologies sent | Karen Bennett - Present |
|  | Clive Mailing - Present | Barbara Fincham - Present |
|  | Clare Redmond – Apologies sent | Ian Chappell - Present |
| **In attendance:** | Len Braiser - SEND consultant LA.  David Watkins - Assistant Director of Education and SEND LA.  Wendy Vincent - Head of Integrated 0-25 Disability Services LA.  Maria Beaney – Finance Business partner LA. |  |
| **Clerk:** | Sarah Phillipson |  |

Discussion

1. Apologies.

Kim Gunn, Steve Avis, Clare Redmond and Jane Shields sent their apologies these were accepted and agreed.

2. Minutes from the 15th January 2020.

**2-1. Accuracy**

The minutes were agreed as accurate.

**2-2. Matters arising.**

None.

3. Declarations of interest.

No changes from the members.

4. High needs commissioned places 2020-21.

Presentation from Wendy Vincent on the High Needs Commissioned Places 2020-21 academic year report. The document was shared in advance to the members.

WV noted that this report was to update the members on the commissioning plans for resource provisions and a special school for September 2021. She reminded members that the Local Authorities must complete a “high needs change notification return” to the ESFA in November of each year. This return predicts the number of high needs places that the local authority will commission at resourced provisions, special schools and colleges for the next academic year i.e. November 2019 submission will be for places commissioned in the academic year 2020-21.

To do this the LA predicts numbers by looking at children coming through the system in past years, along with vacant places, while having enough spaces for children moving into the area. This allows us some flexibility.

Medway Council SEN Team consulted with all schools that have resourced provisions, special schools and colleges to agree on the number and type of places required for 2020-2021.

WV further advised that the ESFA require agreement from every education provider on the number of places agreed. When arriving at the number of High Needs Places at each education provider to commission, the LA take into account;

* The number of current High Needs Places at each education provider.
* The historic and current number of any vacant High Needs Places at each education provider.
* Provision required to meet the needs of SEN children/young people in the area for the next academic year.
* The Joint SEND Strategy.
* The forecasted number of High Needs Places required for the next academic year at each education provider.
* The forecasted Vacant High Needs Places remaining for the next academic year at each education provider.

This information is provided by the SEN Team to each education provider for review and discussion so that agreement is gained from every education provider on the numbers of High Needs Places commissioned for the next academic year.

If the education provider, following discussions, does not agree, the ESFA requires each LA to note this on the High Needs Places Return. Then, for mainstream academies, the EFSA will roll forward the previous High Needs Places numbers from the previous academic year. This has resulted in the LA paying for vacant places we have not been able to decommission. This does not make sense. The LA need to include how much it is funding on vacant places over the past 3-4 years and the impact on funding. Plus it is a cause which is not acceptable to balanced budgeting and is a result of action not by Medway

WV outlined the Joint SEND Strategy 2019-22 explaining the following points:

* Until recently there have been two separate organisational SEND Strategies which was noted by the 2017 Ofsted and CQC visit stating the partners should be working closely together to develop a Joint SEND Strategy. As a consequence, the local Area Joint SEND Strategy was approved by Council Cabinet in November 2019. It was informed by the views of parents, young people and schools and focuses on key areas for improvement across the Council, health, social care and education with the key aim of improving the opportunities for young people with SEND to live fulfilled lives and achieve independence in or near their local community.
* The Joint SEND Strategy sets out the Local Area’s vision, guiding principles and the key areas of development that will be the focus for Medway’s children and young people with SEND over the coming five years.
* The seven key strategic priorities are:-

1. Provide early identification and intervention at all ages to support Children and Young People and their families to prevent escalation to more specialists.

2. Make sure that SEN provision in early year’s settings, schools, colleges and training providers is of high quality so that children and young people with a wide range of SEND can be included and that they attend school, make good educational progress and achieve outcomes that are consistently good services. This covers ALL cyps of course and the monitoring agreements, reporting structures etc. will show through notes of visits on cyp file the progress made or actions to be taken by when and who, plus followed up.

3. Ensure sufficiency of specialist provision in schools, settings and services within Medway so that children and young people can have their health, social care and educational needs met locally. This must be based through an agreed and accepted demand management data [trend and actual birth data], driven by the commissioning structure/cycle that drives the commissioning intentions being linked to the budget and in our case linked to the MDSGFRP.

4. Improve outcomes, life chances and opportunities for children and young people with SEND so that they can be as independent as possible with the effective transition into adulthood. The SEND service monitors this.

5. Ensure participation and co-production with Children and Young People, their parents and carers so that they are at the centre of all that we do. We need clearly to be seen to at least have evidence and base working together on Code of course with the Lamb report as a check and balance. Covered in our Strategy.

6. Provide high quality integrated and accessible services through effective joint commissioning so that vulnerable Children and Young People can have their needs met locally wherever possible as 3 above.

7. Enable Children and Young People with SEND to have the best possible physical and mental health and wellbeing. Do we mean best or ’appropriate’?

* The Strategy is consistent with the priorities set out in the Council’s 2016 – 2021 Plan to enable Medway’s people to realise their potential, through enabling older and disabled people to live independently, ensuring that families are resilient, and all children achieving their potential in schools.
* Formal consultation on Medway’s draft Joint 0-25 SEND Strategy started on 24 April 2019 and ran until 31 May 2019. The consultation was far-reaching with views sought from parents/carers, young people, schools, other agencies and stakeholders all of whom offered important views and feedback to be taken into consideration.
* The strategy is a commitment to support children, young people and their families by encouraging and challenging schools to cater for a wide range of needs and abilities. We believe that all children should be educated as close to their home as possible, which not only reduces the time they have to spend travelling but also enables them to make and maintain friendships and connections in their local community.
* In Medway, 36.7% of children with Statements or Education, Health and Care Plans are taught in mainstream classes compared with the national average of 46.7%. This ranks Medway 122 out of 151 for inclusion nationally and 3rd from the bottom compared with our statistical neighbours.

WV presented a spreadsheet on the proposed commissioned places from Sept 2021. Explained that these are not final until March 20.

**Q – Your spreadsheet shows The Rowans provision 20/21 as 52 but the ESFA document states this is actually 65?** A – We have been in disagreement with this number, we have now agreed it is 65.

**Q - Gillingham football club with 15 places not on this list?** A - They are an independent school so are not included. The timescales are set by the ESFA for academies. The maintained timescales are ongoing. We can open the dialogue with other schools.

**Q - Nacro what is happening with this?** A – Nacro is a training provider, and they don't have a college in Medway. They have 130 places at Nacro but the LA placed 3 children in the college in Sittingbourne, but because their head office is based in Medway we were being charged for all the places. The LA challenged this with the ESFA as it was unfair and costing too much from the schools funding. This year we refused to do this. Nacro is appearing on the list but will not be funding them apart from the 3 that we use hence the reduction in the figures on the list.

**Q – Maintained Alternative Provision seems to be full whenever it is requested so why is there the plan to cut by 10 when it is already oversubscribed?** A – Our starting point the numbers of children in the school “bums on seats” this is the baseline. Numbers have gone up and down.

DW noted that over the last 3 years the LA has spent £3.6 million on funding vacant places and when the LA then ask the schools to take pupils on they refuse and so another provision is then necessary. This is normally out of the area. Financially the LA have already paid this money out, and then still need to find additional funding for the new places plus transport costs. The only way to address this is under the ESFA return. The places are estimated by Nov 2019, discussions are then had with school up until 15th Feb 2020, finalized and published by March.

DW further noted that overall places have been increased by 91. There will be up and down in different provisions. The aim is for the school's money to be used in the most effective way.

**Q - Can you give us an example of the increases etc.?** A – There is an increase of 91 places which aren’t showing correctly on the spreadsheet due to the 87 of Nacro.

DW made it clear that if a school was requested to take additional children then the LA would fund this, however, the LA cannot continue to have money being paid out and not using the places. This is the first time the LA has done this.

**Q - The places being funded but not being used, is this for last year?** A - It was over the last 4 years 16/17 - 18/19.

DW noted this was not an attempt to not fund pupils coming in. He then shared the Send 0-25 National Context, noting that:

* The LGA research in 2018/19 councils faced a funding gap of £500 million.
* Demand has gone up for EHCP’ by 35%, more pupils 2014-18 (400,000) in Medway.
* Change in expectations: C and F Act /Cop.
* More cyps with complex needs + 16 to 25.
* School Attainment to not ‘reward’ inclusion.

DW further noted that LA & Schools under increasing pressures, and that the HH needs specialist provision, costs have increased while funding has all but stagnated. Both schools and the LA are reaching a tipping point as there is simply not enough money to keep up with demand. LA and schools cannot keep doing the same things.

DW explained that schools have to plan for the academic year ahead, but believes that funding agreed will not impact negatively for the schools. The aim is to be open and transparent with the schools.

The Chair noted this is the first time this information has been given to the school's forum and heads.

**Q – So the numbers which won't change are the ones which actually have the children in their schools?** A – Yes, or over that amount. We do go over the numbers with many schools which we then fund. For example, Delce had 20 children but we then added 5 and offered capital funding. Bradfields also have increased with many children

**Q – There is a drive to keep pupils in the mainstream, however, my experience is there is no funding to do this. It is front-load support which then must be claimed back and can be rejected. How can we stop this happening?** A - This shouldn't happen with a child that has an EHCP as the school is consulted prior to accepting the child. The child has a cost provision map and this is a negotiation with the LA for the funding.

**Q - It is normally the review process that has the issues. We put the provision in and upon review, the funding is withdrawn?** A - Generally the funding goes up if there has been a significant change in the provision for the pupil. We would be looking at the outcomes for the child and any provision needed.

**Q - Talked about the naming of the school however, the parents can decide which school even if it is not funded enough to look after their child?** A – I would suggest to go back to the LA during the consultation process of 3 weeks and look at the plan and how you will provide the outcomes for the child along with the costs. With EHCP children the funding comes with the child. In a situation when you have children without EHCP the school puts the money in first, put in the provision which you then request funding for within 4 weeks of applications. This will last for 6 months and then you will need to reapply.

**Q - Feedback is that the review is not open enough at top-up. I feel the schools who are being reviewed should be invited to be a part of the review?** A - Yes you can do that.

**Q - The £6K sum for provision top-up comes from where?** A – The budget the Government puts through the school's block fund.

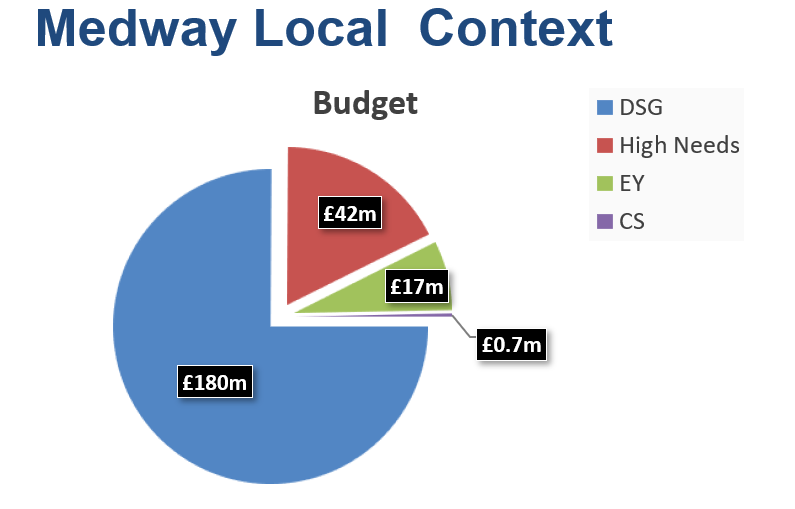
**Q - Abbey court I make this a variation of 18, not 20?** A - Yes you are right, I will check this.

DW noted there is confusion and that the LA is committed to reducing this and improve communication. He reminded members that all funding is schools money and not the LA’s, how it is spent is up to all. The LA has a plan to take this forward.

5. DSG Recovery Plan update presentation

David Watkins/ Len Bennett presented the DSG Recovery Plan update noting the following:

* Important to address the significant overspend from the School's block fund.
* LA has recently had a review of the Written statement of actions from Ofsted. The outcome to come once formally published in next 2 weeks.
* A key point is Focus on the Child. Which are local places for local people. To ensure the best for the children who come through our schools and provisions.
* We have got extra resources to support education in its widest sense and it is at the top of the agenda in the cabinet. The LA is developing member lead strategic SEND focus group. Chaired by Ian Jarret the leader of the LA. The forum is Key partner in this process.



* More requirements being put onto schools for places for more and more children with more complex needs.
* Increasing demand on numbers - 23000 EHCP - 400 additional plans with more complex needs.
* Position as of 01/01/2020 is £10.2 million deficit. This is recurrent and compounding.

• Proposal to secure council capital funding of:

* £2.5m for Resource Provision - That will look at education and noting the need for more funding from LA budgets.
* £2.5m for the delay in the new Free School - One school is 3 years overdue. ESFA delayed the funding and so the LA cannot build the school this means 180 children will not have a school place. The ESFA not liable and so we have to find the spaces needed from this school.
* £20m from potential borrowing. This has been approved from the LA. When the funding is required, the LA will put in a potential borrowing bid under Capital funding. This means that for every £1m borrowed from capital funding the LA has to find the revenue funding to match it by £100,000. The council have agreed to fund this up to £20m.

DW explained that the LA is required to submit a deficit recovery plan at 2% to the DFE funding agency. In 18/19 the government made an in-year adjustment and altered this to 1 %. This means that 32 LA has submitted a deficit recovery plan. In our plan, we noted we can manage some overspend but cannot commit to a balanced budget. ESFA noted that the majority of remaining was at 0.9%. ESFA met with the LA to review this budget deficit plan and noted that the LA was open and transparent. A positive meeting.

DW noted the following actions needed to be taken to address the issues faced. –

Set up the SEND Deficit Recovery Group a subgroup of the Schools forum which will look at:

* DRP: £3.2m one-off
  + Under review.
  + No firm commitment.
  + Positive meeting with ESFA.
* Resource Provision.
* Review Bandings.
* Work with schools to extend/develop inclusion offer.
* Review/Reduce Out of Area Provision [OAP].
* Engage with key partners:
  + Schools.
  + Parent/ Carer Forum.
  + Health.
* Health should come to form health budgets and not schools.

DW explained that the aims of the LA are to:

1. Set against local demand and in account of National trends, to balance the budget by 2022/23.
2. To reduce unit costs.
3. To work more closely with Schools.
4. To build capacity through inclusion and inwardly invest.

The next step is:

1. Develop a detailed delivery plan.
2. Produce an ordinary available document.
3. Implement more rigorous sign off arrangements.
4. Regular Review/Engagement at Schools Forum.
5. Create H.N. Subgroup of Schools Forum.
6. Establish HT Special Schools Group.

DW invited questions:

**Q – You talked about £2.5m and £2.5 m, so where is this £5 million coming from?** A – It is coming from the LA and not the schools’ money.

**Q - Is that purely for capital?** A – Yes.

**Q - So the provision £2.5m, is that to increase resource provision within schools?** A - To meet growth and keep children in the area. We know that EHCPS will continue to grow with a limited budget to increase this. To place a child out of the area might still be necessary, as not all schools can meet the needs of our children. It must be the best use of the resources and focusing on the child. We will review out of area resources, we will not force these children to be brought back into the area if not needed.

**Q - £2.5m – Is this for 180 who should have been in the free school?** A – Yes it is.

**Q - Providential borrowing £20m capital what is that for?** A - To build new a provision. We are working with the DFE to look at how they can help us meet the needs in Medway.

It was noted that EHCPS have been tightened along with top-up funding, this is due to £10.2m overspend. It was further noted that the LA must make fair and consistent decisions. If the numbers continue to grow at the same rate - (86 increase last year.) with the population growth. 46% of these children go to special schools that are full and this problem will continue to grow. Members noted that whatever plans that are in place must be robust and be able to grow also.

**Q - Has details come through regarding the additional funding from the Government of £700m for High needs funds education?** A – The share for Medway is £3.2m for 20/21. This is not promised going forward. This is a national problem.

**Decision –** Members agreed to set up a subcommittee as noted above. Terms of reference to come to this group for agreement.

**Decision –** Members noted the financial position of the HNB/DSG across Medway and the national context of SEND funding pressures. Members were also made aware of the additional Government funding levels and the Councils capital funding bid.

The chair asked members who would like to volunteer to join the SEND Deficit Recovery Group, a subgroup of the Schools Forum. The subgroup would report back to the forum:

Ian Chappell.

Clive Mailings.

Karen Bennet.

Paul Jackson.

**Q -When we review the budget for 20/23 we might come to the conclusion it is not possible?** – A - We would need to find a balance between what is best for our children and how we balance the budget.

6. Schools in Financial Difficulty due to PAN size class management Policy.

MB presented Appendix 1 and 2 – the policy from May 19 and the proposed rewording of the policy draft.

MB explained that as part of the local funding formula process each year, The Schools Forum is required to set and approve the local authority centrally retained growth funding budget as well as approving the key funding policies designed to support the formula and allow schools to access the centrally retained funding.

Medway has two policies for accessing schools funding support which are reviewed in May/July each year. These policies were last reviewed in May 2019 and are:

1) The growing schools (growth fund) policy.

2) Schools In Financial Difficulty due to PAN Class Size Management Policy.

At the Schools Forum meeting of 15 January 2020, 6 schools applied for funding support under the Schools in Financial Difficulty policy, of which 2 were approved and 4 were rejected. Members felt there was some confusion around the policy and agreed to review the policy.

The Schools in Financial Difficulty due to Pan Class Sizes Policy.

The Schools in Financial Difficulty policy was first introduced in 2018 after a year of discussion and amendments to the policy by members. The policy was reviewed and updated in May 2019. Please see appendix 1 for the current policy.

The policy offers temporary protection (up to three years) to those schools who are required to open more than one class but with low pupils numbers and are unable to increase the remaining class sizes because of the maximum class size of 30 required by law in key stage 1.

The policy criteria states:

•Those schools who can’t reduce their published admissions numbers due to statuary school class sizes in key stage 1 i.e. years R, 1 and 2.

•Where does the place planning team determine there is a requirement for a minimum percentage of the surplus places within the next three years and can’t enter into a local area amendment arrangement? Especially where the school has requested to reduce their PAN or enter into a local agreement which has been denied by the LA.

•Schools must submit a business case for approval by the Schools Forum in November so it can be discussed at the January Schools Forum meeting with funding starting from in September. I.e. submit a business case in November 2017, Schools Forum approval in January 2018 with funding to start from September 2018. Where business cases are rejected, schools will be told why.

•The school does not receive pupil growth funding support for new classes.

•This funding is not intended to support schools who fall into financial difficulties through budget mismanagement.

•A school will not be eligible or will stop being eligible for funding if the class is more than 2 thirds full. I.e. 21 for a PAN of 30, 41 for a PAN of 60, 75 for a PAN of 90.

The policy supported 7 schools for the 2019-20 academic year and 6 of these schools submitted their business cases for support in the 2020-21 academic year for the January members as per the policy. At their meeting on the 15 January 2020, School Forum members approved 2 of the business cases but rejected the other 4 as their classes were more than two thirds full.

Membership of the Schools Forum has changed since the introduction of the policy and most of the history behind this policy and the changes have been lost. Previous Schools Forum minutes state:

*“Sept 2018 Minutes note 6. Ratify the schools in financial difficulty policy note:*

*MB gave a summary of the policy including the requested changes to the policy following the last meeting.*

*The cut-off point was discussed and noted to be a max of 80 pupils or 2/3. It was felt this should be made clear in the policy.*

*Members felt that the policy should show all form entry numbers and maximum pupils for each form. (This is based on the October census day figures.)*

*It was discussed whether this policy could negate the LA place PAN planning ongoing issues. It was felt that in the future there should be better transparency regarding where the hotpots are and where there is a need to keep capacity.*

*The LA stated they have agreed the reduced Sept 2020 PAN numbers to go through at school places level.*

*It was made clear that this policy gives schools the opportunity to present a business case to the Schools Forum.*

*Decision: All members voted and agreed on the policy based on the changes above“*

*Note the 80 pupils were changed to 74 at another meeting.*

And

“15th May 2019 minutes The Schools in Financial Difficulty due to Pan Class Sizes Policy note:

*MB explained that The Schools in Financial Difficulty policy was first introduced in 2018 after a year of discussion. The policy offers temporary protection to schools who must open a new class with very few pupils because of the maximum class sizes in key stage 3.*

*In 2018, a £300,000 budget allocated to the policy and has been fully spent. A similar amount was allocated for 2019-20 and is expected to be fully spent as well.*

*The ESFA has reviewed this policy and would like the Schools Forum to consider adding the highlighted section at the bottom of the policy and other cosmetic changes are highlighted in yellow in section 3.3. (See pre-read paperwork appendix 3.) Attached above.*

*Decision – All members voted and agreed to approve the policy amendment section 3.3 “A school or academy will receive £55,000 per class per year. The £55,000 will be pro-rated against the maximum PAN. “ Example: A school has 21 pupils on roll from a PAN of 30 = £55,000 / 30 \* (30-21) = £16,500.*

*A school has 42 pupils on roll from a PAN of 60 = £0.*

*A school has 74 pupils on roll from a PAN of 90 = £55,000 / 30 \* (90 -74) = £29,300.”*

All 4 of the business cases the Schools Forum members rejected were for schools who have a PAN of 90 based on the two-thirds fall criteria. However, if you apply the two-thirds criteria rather than the 74 pupils (67%) these schools would never meet the criteria which go against the aim of the policy which was to help support schools who have to open one or more classes because of the maximum key stage 1 class size.

Therefore the LA would like to propose the following changes are made to the policy and are highlighted in blue in appendix 2:

• A school will not be eligible or will stop being eligible for funding if the class is more than 2 thirds full with schools who have a PAN of 60 or less across key stage 1. I.e. 21 for a PAN of 30, 41 for a PAN of 60.

• A school will not be eligible or will stop being eligible for funding if the class is more than 67% full with schools who have a PAN of 90 across key stage 1. I.e. 75 for a PAN of 90.

• Medway Council’s director of education will determine if a school meets the eligibility criteria set by the policy.

• A school or academy will receive £3,750 per pupil up to a maximum of £55,000 to match the government’s minimum funding guarantee.

MB further noted that the four schools whose business cases were rejected have been informed and at least one of these schools has indicated they will appeal this decision and will be resubmitting their business cases in May and therefore the policy must be robust.

**Q – We must look at single classes, 23 class per class. Why does a 3-form school take more money to run?** A – with an additional PAN of 30 you are forced to open another class.

**Q - Has anyone ran any numbers on this to see what would happen?** A - Yes we did this. The funding was put in place to support schools struggling under numbers. We couldn’t reduce the PANs as it was just a period of time until they were filled. The school then doesn't get the funding.

The member discussed in detail the arguments around one form entry and 3 forms and how this policy will affect this, along with if this was balanced and fair.

DW noted that this policy was put in place last 2018 but there wasnt a huge number of applicants last year and the budget was not fully spent. A member noted that applicants are increasing each year.

**Q - The policy doesn’t fit everyone – Why are 3 forms majority biased and not consistent with the split of primaries in Medway?** A – We are looking at the strategy regarding pupil places going forward and trying to keep the places open.

**Q – Is it just a case of the clarity of the wording around the policy?** A - A renewal is coming up in May 2020. Can put on the agenda to review the policy wording then.

The members continued to deliberate the policy.

**Decision –** Apply the Policy 2019 as it stands and review full policy in May 2020. The 4 schools who previously applied will be awarded the funding as they applied under the May 2019 policy.

**11. Date and time of next meeting. –** The date of the May meeting was confirmed as 13th May and not the stated 15th May 2020.

I confirm as Chairman of the school's forum that this is a factual representation of the meeting.

Sign………………

Date ………………