

## Minutes of the Schools Forum

5 May 2022

-: Present :-

**Stewart Biddles (Chair)** Primary Academy Rep; **Lisa Finn (Vice-Chair)** Secondary Academy Rep; **Tim Stephens**, Primary Academy Governor; **Clive Star**, Secondary Academy Rep; **Jim Piper**, Primary Academy Deputy Head; **Alex Newton**, Secondary Maintained Head; **Steven Hulme**, PRU **Mike Lock**, Special Schools Head; **Jayne Jones**, Early Years Rep; **Steve Margetts**, Secondary Academy Head, **Sarah Tomkinson**, Primary Maintained Head; **Kelly Sooben**, Post 16 representative

-: Also in attendance :-

**Rachael Williams**, Assistant Director for Education, Learning and Skills; **Martin Phillips**, Director of Finance; **Dan Hamer**, Head of Vulnerable Pupils; **Dorothy Hadleigh**, Head of SEN; **Michael Freeman**, Clerk

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### 1. Apologies/Changes to Membership

Apologies were received from Rob Parr. Stewart shared news that Ken Kies, Primary Academy Representative, has recently decided to take early retirement and has resigned from School Forum with immediate effect. Members gave their thanks to Ken for his contributions to School Forum and wished him well in retirement. Rachael said that she will be seeking a new Primary Academy representative in due course.

The Forum welcomed Kelly Sooben to her first meeting.

**Action – Rachael to seek new Primary Academy Rep.**

### 2. Minutes of the last meeting

Minutes of the last meeting held Thursday 5<sup>th</sup> May were agreed as a true record. Rachael

### 3. Financial Report

Rachael presented to members the latest Financial report, detailing a final outturn position of £3.174 million in deficit. The challenges are in relation to the EHCP's in year adjustments and the other packages for EHCP pupils and SEND personal budgets (bespoke packages).

A detailed breakdown on the Early Years block as well and the position moving

forward. We anticipate that the Early Years block will be in the region of £9000 overspent at the end of this that was overspent by about £9000. Members were asked to note that this is anticipated at this point because the final adjustment figures don't come through till July from the ESFA for the early years block. Given the nature of Early Years funding over the last 12 months trying to anticipate how the funding is going to work given the opening and closing of provisions during that period of time, It was felt that this was a relatively strong budget position to be in at the at the end of the year.

The most significant area of concern remains in the Higher Needs block. This is where we get challenged by the ESFA regarding our rates of EHCP's and our request for statutory assessments. Dorothy explained that when a new education, health and care plan is issued, there is a calculation that's done by the monitoring team regarding Element 3 funding. We are finding on an increasing scale that schools are not accepting that first calculation and coming back and requesting significantly additional Element 3 funding. School forum needs to be considering how to address that, needing to look at what schools are investing from the delegated pot rather than their overreliance on element 3 funding.

Independent schools fees have risen during this financial year. You would have noted in papers that we came forward and told you that Preston Bridge was opening in our area as a new Independent School. And we have seen some parents requesting that provision and we haven't had a counter argument or a counter offer for those children, which would have not been overruled at tribunal. So we have had to place some children in that independent provision as well.

Dorothy noted that some of the Devon children placed at the independent schools provision have subsequently selected to move into a house in Torbay, meaning that these children come on to our financial pages as well, and that it wouldn't be right to then cease that provision or try to find an alternative for those children as well.

Mike Lock asked that given Torbay spend just over £3,000,000 on independent placements as a percentage how does that compare with other local authorities? Dorothy stated that this is low when compared to other LAs.

Officers are going through bespoke packages trying to look at whether those packages coming out of COVID can now be stepped down and children can return into a mainstream offer with support, as well as scrutinizing very closely any new requests for bespoke packages. Meetings are planned for the 9<sup>th</sup> and 10<sup>th</sup> June. Rachael asked that if anyone is keen to be part of that, to let her know.

Rachael asked members to note that the Special Schools block came in under spent this year and we have managed the numbers well in compared to our Commissioning at the start of the year. So congratulations to all involved. There has been significant demand for places as well and that was a positive part of the higher needs block that was that was managed effectively.

But it leaves us still in the position that we are in the £3.174 million deficit at the end of this year, with now a cumulative overspend of £8.999 million, ahead of the safety valve conversation due to commence with the ESFA on the 25<sup>th</sup> of May.

After conversations with authorities that have already been on the safety valve, Martin said that the safety valve agreement comes with significant challenge back to the local area to do things differently. The expectation ahead of the meeting on the 25th is that we will put forward a further savings plan to the ESFA. At the moment officers are going through the Written Statement of Action to identify any of those trajectories to then say where they would have financial implications. Rob and Martin are talking to our finance colleagues at Devon later on today to find out their experiences from their first meeting.

Members noted that although we are having safety valve conversations, we still can't expect that to necessarily happen. It is important to make sure that we are as successful as we can be in that process, and we need to be confident that it can be delivered and everybody in the system has to be working towards that same objective, so that we can secure the additional funding/support coming into the area.

#### **4. DSG Allocation for 2022-23**

Members were shown the DSG allocations for 2022/23, based on the principles that have been previously agreed at School Forum. Stewart thanked officers for the information.

#### **5. SEND Green Paper**

Rachael presented to colleagues the SEND green paper. Whilst it is helpful to have the direction of travel indicated by the Department for Education, members were disappointed in the detail that's now in the Green Paper given the fact it was so delayed in its publication, whilst recognising the need to respond to the challenges that it creates and the opportunities that it is creating.

It was felt from a School Forum perspective, that the Green Paper alludes to many of the issues that we have been discussing around how we build a culture of inclusive practice and how do we use all of our mechanisms to be able to make sure that children get the right support. Rachael noted similarities between the outcomes of our Local area SEND inspection and the Green Paper findings.

The Green Paper suggests that there's going to be a bigger push on mainstream education to use its notional send budget to meet the needs of children and young people. Where children and young people then have an Education, Health and Care Plan, they will be a national banding system for children and young people and a framework in which all local authorities will be expected to use to assign funding. The other aspect of financial note in here is that they are also going to ask local areas/school forums as the mechanism for funding that.

Rachael highlighted to members that one of the other key things that will drive spend within the document is preference given to parents to be able to select their own provisions. It was felt that a national EHCP document, coupled with a selection

and a choice mechanism built into that could potentially lead to a high number of tribunals where the LA disputes whether or not cost can be met differently or need can be met differently at different costs.

Rachael then proposed to forum that the LA makes available it's consultation response to all schools and heads within the Torbay, to encourage all of our Head Teachers, SENCOs and others to respond to the paper and the consultation document.

Dorothy reiterated the importance of submitting a local area response as part of the consultation, because the lobby groups that support parents in getting their views back to central government will be doing the same, shaping the actual Green Paper that is eventually submitted as legislation.

Dorothy has sent the Green Paper out to all schools and SENCOs prior to the next SENDCO forum on the 18th of May, in order to start to shape the response that we as a local area pull together before the end of the consultation process, which is in in July.

Members stated the importance of the Early Years sector being included in the response. Dorothy agreed and will talk to Early Years colleagues to extend an invite to the 18<sup>th</sup> May meeting.

Mike Lock shared details of a DfE presentation he attended last week on the Green Paper. He noted that The DfE are saying that the Green Paper is a consultation document, and that there's a lot of work to be done to become the finished article.

## **6. Written Statement of Action - SEND**

Rachael was pleased to inform members that the first submission of our Written Statement of Action has now been accepted by both Ofsted and the CQC, saying that it is a really positive starting place to addressing the concerns of the local area send inspection so the document. The written statement of action sets out the direction of travel towards the eight areas of improvement required under the four pillars that was presented to members at the previous Forum.

The Written Statement of Action had over 550 Contributions which were put into the writing of the Written Statement of Action, and Rachael thanked members, as well as Head Teachers, SENCOs and Early Years providers for joining in those Co-production meetings to come up with the plan and the agreements moving forward.

It was explained that the Written Statement of Action will be led by a SEND Strategic Partnership Board which then reports our Torbay Council cabinet. Underneath the Written Statement of Action is the four pillars of improvement (joint commissioning, inclusion, transitions and the improvement of quality and EHCP's), each of those will have separate areas of work. Rachael said that SEND family voice Torbay have been newly established and they are part of the SEND strategic partnership as well. There are a huge number of working groups that will need to be

established, some of them will complete fairly promptly, others will be ongoing pieces of work as well.

In terms of the Written Statement of Action process any work that was done by School Forum has been included within, and officers are now working through this to identify any of the savings connected to each of the rows.

Members asked whether they could we have a little bit more detail about what these groups actually mean, Rachael agreed to ask our project manager to pull over the detail from the work and give a brief statement under each one.

The Forum thanked Rachael for her update and felt it positive that the Written Statement of Action has been accepted first time.

**Action – Further detail of what each group is/does to be presented to members at next Forum.**

## 7. EHE legal advice

A letter from Mark Maries, Senior Lawyer at Torbay Council, was shared with the Forum. Although members were disappointed by the detail of the letter, in terms of Forum moving forward, it is important.

Stewart reiterated the need to make sure that the decisions we make have a proper legal basis and we're acting appropriately and carrying out our duties appropriately. The senior lawyer for Torbay Council has said that they provided advice that there was a mechanism to recharge for elective home education in 2018 and Stewart felt that from a Forum perspective, that's what we need to know. It was acknowledged that it would have been good to have the detail and what that basis was underneath, but if the senior lawyer for Torbay Council is saying that that basis was there, then Forum has to accept that.

Alex queried the detail in the Letter there's a mechanism to be able to recharge, but recharge for what? The argument from the secondary heads was recharging for a child who has left when the money is going to them, whereas our view was when that money is not going to the child who is left it is simply a fine. That child who's left is not costing the local authority any money. They've moved out of area. They've gone to a different school.

Stewart acknowledged Alex's comments, but stated that from a Forums point of view what we have to say is did we act legally and the senior lawyer is saying we did. Schools will have questions over that, and I think they need to take them up, individually or jointly with the authority, but separate to Forum.

Steve Margetts explained that he has spent a lot of money on getting legal advice on this, and intended to continue to pursue it from a legal perspective, putting it back in the hands of the barristers to challenge the Local Authority.

Stewart thanked members for their comments but felt the need to for School Forum to move on from this issue. It was agreed that the Local Authority would meet with secondary forum representatives and outside of the meeting. The outcome would then be brought back to Forum.

**Action – Establish a meeting on EHE recharge with Secondary Reps  
Present back conclusion to Forum in due course.**

**8. Items for next meeting**

- Update on the Written Statement of Action
- Safety Valve update
- Resolution proposal to EHE recharging

**9. Future meeting dates**

- Thursday 16<sup>th</sup> June, 09:00
- Thursday 13<sup>th</sup> October, 09:00
- Thursday 24<sup>th</sup> November, 09:00
- Thursday 19<sup>th</sup> January 2023, 09:00
- Thursday 23<sup>rd</sup> March 2023, 09:00
- Thursday 4<sup>th</sup> May 2023, 09:00
- Thursday 15<sup>th</sup> June, 09:00