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Report title:	High Needs Sub-Group Progress	
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Executive Summary

This report considers the progress of the Schools Forum High Needs sub-group and the recent call for evidence on SEND children – item 9A

Schools Forum Actions

The Schools Forum are asked to

- i) Comment, where necessary, on the area the High Needs Sub-group is looking at for further savings/efficiencies
 - Corporate overheads and transport
 - A further school block transfer
 - A different funding mechanism for SENDIF
 - Apply the Minimum Funding Guarantee to Special Schools and Early Year's funding rates
 - To review the LAC Education budget
- ii) Comment on whether the LA should consult stakeholders on the proposals for the faster transition to the new bands on EHCP'S of just "informed" of the change
- iii) Item 9A - to agree the draft response to the call for evidence on SEND children

1.0 Background

1.1 The Task Group was set up by the Schools Forum to review the costs of funding high needs pupils. In particular, the group was asked to consider how the Local Authority could bring spending in the High Needs Block back in line with the allocation from the Department for Education while maintaining meeting the outcomes for children. The task group were asked to assist with:

- Reviewing all funding within the High Needs block to ensure it is delivering value for money.
- Consider the capacity and funding of resource bases
- Consider the capacity and funding of Special Schools
- Consider the Funding levels of Education, Health and Care Plans

- Consider the capacity and funding of Alternative Provision
- Review the funding of early years and post 16 places to assess the level of needs and resources.
- Review the centrally managed items
- Secure the support of the Schools Forum for its proposals.

The group was asked to complete its work by the end of November 2018 and to provide the Schools Forum with an interim report in December 2018 and a final report in December 2019.

1.2 The Dedicated Schools Grant had a deficit carry forward from 2017/18 of £4.1m. and a further deficit in 2018/19 of £7.4m. The overspend has been building over the last few years, however before 2017/18 there was sufficient in the Dedicated Schools Budget reserves to meet the cost. Broadly the overspend has been the result of:

- growth in the number of pupils being supported
- settlements that are cash frozen and only allow for limited growth in numbers
- additional responsibilities for SEND pupils aged 0 to 2 and 19 to 25.

1.3 At the Schools Forum budget setting meeting in December 2018 and January 2019, the Schools Forum agreed the following:

1	That the council seek to reduce the corporate overhead charge by £0.5m in 2019/20 with a further reduction of £0.5m in 2020/21.
2	That the DSG contribution to the council for transport be reduced by £0.2m in 2019/20 with a further reduction of £0.2m in 2020/21.
3	That a review takes place of the Hearing & Visual Impairment Teams to consider whether it is viable to implement efficiencies to the service by 2020/21
4	That a review takes place to the SEN Inclusion Team to consider whether it is viable to implement efficiencies to the service by 2020/21.
5	That a review takes place to the Autism Support Team to consider whether it is viable to implement efficiencies to the service by 2020/21.
6	That a review takes place to the Speech and Language contract to consider whether it is viable to implement efficiencies to the service by 2020/21.
7	That the contribution to the council for residential placements be reduced by £0.1m in 2019/20 with a further reduction of £0.175 in 2020/21.
8	That the contribution to the council for Early Help be reduced by £0.107m in 2019/20 with a further reduction of £0.107 in 2020/21
9	Alternative funding of £0.194m should be found for the NEET service from April 2019.
10	Alternative funding of £0.050m should be found for the Alternative Provision service from April 2019.
11	For Education Health and Care plans A) The new banding system be introduced over the next two years B) The protection for inclusive schools
12	Review of resource bases is carried out with the target implementation date set at September 2019

13	10 Independent places are brought back in-house
14	A review of the SENDIF fund be undertaken
15	Officers have drawn up proposals and options to balance the Alternative Provision budget and these to be further considered by the LA
16	The current savings on the Admissions budget of £0.05m be transferred to the High Needs Block
17	A request to the secretary of state is made for a further transfer of £1.2m from the schools block to high needs block

- 1.4 In total the strategy, detailed above, if implemented in full would reduce expenditure by £6.5m over a three-year period as follows

Year	m
2019/20	£4.1
2020/21	£6.3
2021/22	£6.5

At the time of drawing up the strategy the forecasts were indicating an overspend of £6m and the proposals were firstly, to address the in-year deficit before further action to payback the accumulated deficit. As noted above the deficit turned out to be higher at £7.4m. It was always the case that the strategy did not take into account growth, which was thought to be £1.7m.

1.5 Consultation with Stakeholders

In the executive summary of the sub-groups report to the Schools Forum, it states that: “the local Authority [sic] must undertake an equalities impact assessment [sic] for all the proposals. Additionally, the local authority will need to consult schools and stakeholders (including parents where relevant) on the proposals.”

The report recommends: “That the Schools Forum:- Ask officers where appropriate to undertake a [sic] equalities impact assessment for all the proposals listed below [and] to consults [sic] schools and stakeholders (including parents where relevant) on these proposals.”

1.5.1 Hackney Judicial Review Judgement

On 12th April, 2019, the Hackney Judicial Review judgment in the case of R-AD v Hackney LBC, was published: Claimants in the case challenged Hackney’s use of a banded system for funding provision for children in mainstream schools with EHCPs and its decision to reduce the amounts in each band by 5%. They made their challenge on 10 grounds (A-J), one of which relates to this proposal to review: “That the 5% reduction was unlawful because of the absence of prior consultation with families, as required by statute and common law (Ground E).”

- The Court held that Hackney was entitled to apply a banded approach to costing SEN provision.
- No public consultation was required at common law, as an aspect of the Public Sector Equality Duty (PSED) in section 149 of the Equality Act (2010):

No public consultation was required at common law, as an aspect of the PSED, or under s.27. The Court restored orthodoxy on the common law position by again declining to follow *KE v Bristol*: the duty arises only in cases of legitimate expectation or, exceptionally, 'conspicuous unfairness' [§§87-88]. The supposed 'duty of inquiry' inherent in the PSED is no more than an aspect of the broader Tameside duty to equip oneself with adequate information [§83]. That may or may not require public consultation, depending on the facts. In the present case, Hackney had adequate information to carry out a detailed analysis of the impacts of the 5% reduction, and furthermore had consulted with the Schools Forum, which had the appropriate technical expertise [§84]. (<https://www.11kbw.com/wp-content/uploads/R-AD-v-Hackney-LBC-12-04-2019-APPROVED.pdf>)

1.5.2 Proposal requiring decision

We would like to ask the Schools Forum if, in light of this judgement, they believe there is still a requirement on the LA to consult schools and stakeholders (including parents, where relevant) on the proposals made by the High Needs Sub Group; in particular, the proposal to change the EHCP banding and apply it to EHCPs granted under the previous banding system. They will fully informed them about the faster transition.

2 Sub-group

The sub-group have met twice during the summer term. Their work has focused on the progress in delivering the savings and looking at potential further areas to provide efficiencies.

2.1 Progress

Of the planned savings for this year of £4.1m, £2.9m has been delivered. Of the remaining £1.2m this related to a combination of the proposals on EHCP'S, resource bases and bringing children back into in-house provision. While these are still considered to be deliverable the timeline has been delayed. There is one exception for resource bases as while some progress has been made it is now thought the £0.5m in full will not be delivered and it is likely to be £0.3m.

In order to progress these:

- The Local Authority has agreed for £480k to be invested from 1 April 2019 to accelerate the transition from the old 2 band mainstream top up system to the new 4 band system to save £1.3m over 2 years.
- It has been agreed that £0.7m of capital will be invested in Spa Camberwell school to support the provision of additional places on a timely basis to avoid increased costs by £434k over 2 years.
- An independent review of resource unit provision has been commissioned in support of action plan to make savings.

2.2 Further proposals

The sub-group discussed further proposals at their meeting on the 4 June 2019. With the worsening deficit position and the likely future growth estimate it was felt the sub-group should draw together proposals on an additional £3m in efficiencies.

The group re-considered all areas of the high needs block and felt further work should be undertaken in the following areas:

1. Corporate overheads and transport
2. A further school block transfer
3. A Different funding mechanism for SENDIF
4. Application of the Minimum Funding Guarantee to Special schools and Early Year's funding rates
5. A review of the LAC Education budget

The Schools Forum are invited to comment on these before the work programme of sub-group for the autumn term is drawn up.

The group also considered the local authority's submission to the DFE as a response to their call for evidence on SEND Funding Arrangements and this is item 10 on the agenda.