

Agenda

Herefordshire schools forum

Date: **Friday 6 July 2018**

Time: **9.30 am**

Place: **The Council Chamber - The Shire Hall, St. Peter's Square, Hereford, HR1 2HX**

Notes: Please note the time, date and venue of the meeting.

For any further information please contact:

Tim Brown, Governance Services

Tel: 01432 260239

Email: tbrown@herefordshire.gov.uk

If you would like help to understand this document, or would like it in another format or language, please call Tim Brown, Governance Services on 01432 260176 or e-mail sarah.smith1@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Herefordshire schools forum

Membership

Chairman	Mr A Evans	Mainstream Academies
Vice-Chairman	Mrs J Cohn	Academy Special School Representative
	Mrs S Bailey	Local Authority Special School Headteachers
	Mr J Bowdler	PRU Management Committee
	Mr P Burbidge	Roman Catholic Church
	Mr P Cordey	Mainstream Academies
	Mr A Davies	Mainstream Academies
	Mr P Deneen	Trade Union Representative
	Mr T Edwards	Local Authority Maintained Primary School Governor
	Mr G Evans	Mainstream Academies
	Mr M Farmer	Mainstream Academies
	Mr M Henton	Local Authority Maintained Secondary Schools
	Ms A Jackson	Early Years Representative
	Mrs L Johnson	Local Authority Maintained Secondary School Governor
	Mr S Kendrick	Local Authority Maintained Primary School (Nursery)
	Mr T Knapp	Mainstream Academies
	Mr C Lewandowski	Trade Union Representative
	Mr M Lewis	Local Authority Maintained Primary School
	Mrs S Lines	Church of England
	Mrs R Lloyd	Early Years Representative
	Mrs J Rees	Local Authority Maintained Primary School
	Mrs M Stevens	Local Authority Maintained Primary School
	Vacancy	16-19 Providers
	Mrs K Weston	Local Authority Maintained Primary School
	Mr P Whitcombe	Mainstream Academies
	Mr K Wright	Local Authority Maintained Primary School

Agenda

	Pages
1. APOLOGIES FOR ABSENCE To receive apologies for absence.	
2. NAMED SUBSTITUTES (IF ANY) To receive any details of Members nominated to attend the meeting in place of a Member of the Forum.	
3. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4. MINUTES To approve and sign the minutes of the meeting held on 23 March 2018.	5 - 22
5. UPDATE ON NATIONAL SCHOOL FUNDING To receive an update from the schools finance manager on national developments in schools funding.	
6. LOCAL MANAGEMENT OF SCHOOLS DIRECTED CHANGES To approve a change to the council's local scheme for managing schools, as directed by the Department for Education. The directed change is to ensure that loans agreed by the council with schools in future are for capital purposes only.	23 - 30
7. REVIEW OF SCHOOLS FORUM MEMBERSHIP To review the membership of the Herefordshire Schools Forum and the Budget Working Group and to consider arrangements for elections of members for the 2018-2021 term.	31 - 36
8. HEREFORDSHIRE COUNCIL BUDGET PRIORITIES CONSULTATION To brief members of the forum on the council's budget priorities consultation for 2019/20.	



Minutes of the meeting of Herefordshire schools forum held at Committee Room 1 - The Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Friday 23 March 2018 at 9.30 am

Present: Mr A Evans (Mainstream Academies) (Chairman)

Mrs S Bailey	Local Authority Special School Headteachers
Mr P Burbidge	Roman Catholic Church
Mr A Davies	Mainstream Academies
Mr P Deneen	Trade Union Representative
Mr G Evans	Mainstream Academies
Mr M Henton	Local Authority Maintained Secondary Schools
Mr S Kendrick	Local Authority Maintained Primary School (Nursery)
Mr C Lewandowski	Trade Union Representative
Mrs S Lines	Church of England
Mrs R Lloyd	Early Years Representative
Mrs J Rees	Local Authority Maintained Primary School
Mrs K Weston	Local Authority Maintained Primary School

In attendance: Councillors CA Gandy

Officers: Lisa Fraser, Mr Malcolm Green and Les Knight

21. APOLOGIES FOR ABSENCE

Apologies were received from Mrs J Cohn, Mr T Edwards, Mr M Farmer, Mrs L Johnson, Mr T Knapp and Mr M Lewis.

22. NAMED SUBSTITUTES (IF ANY)

Dr R Patterson substituted for Mr T Knapp, Mr P Burbidge spoke on behalf of the governor representatives who were unable to attend.

23. DECLARATIONS OF INTEREST

None.

24. MINUTES

Resolved: that the minutes of the meeting held on 12 January 2018 be approved as a correct record and signed by the chairman.

25. HIGH NEEDS BUDGET 2018/19

The item began with a presentation by the head of additional needs. The key points noted were:

- the high needs budget for 2016/17 had not yet overspent and although warnings had been issued about a possible overspend based on forecasts it was hoped that spend for this year would come in on budget;
- longer term forecasts projected difficulties if current level of demand continued;
- there were a number of areas of growth in demand plus additional responsibilities which had been given to local authorities without significant increase in funding;
- other authorities were reporting similar difficulties and many were already overspending on their high needs budget, Herefordshire was in a relatively good position but could not be complacent;
- efforts were being made to ensure the point of entry to the system was robust - a headteacher and other senior school staff members had been added to the SEN referral panel, the principal education psychologist would be double checking referrals in addition to the caseworker and the SEN Team Manager, evidence requirements would be strictly applied and a period before reapplications could be made was being considered;
- the descriptors in the matrix would be reviewed and made clearer over the summer term;
- the service would consider trading some services, for example for hearing and visual impairment, but this would need to be carefully considered against the risks of pupils being overlooked if schools did not buy back services;
- any changes to central services needed to be carefully considered - once removed they could be difficult to reinstate as specialist staff would move on and care needed to be taken to understand the interrelations between services to avoid unintended consequences for schools and pupils;
- partnership working would be an important part of the way forward, options to be considered could include devolving some finance to partnerships of schools to manage on the basis that once funds were exhausted the partnership would need to make up any shortfall;
- the vast majority of the high needs budget (approx. £8.5m out of £12.3m) was currently spent on commissioned places and top ups for mainstream, post-16 special schools and the PRU, if the budget was overspending on top ups it was unlikely that savings on the smaller items of spend would be sufficient to compensate.

The presentation was discussed and the following points made:

- there was ongoing dialogue with headteachers both individually and through phase groups;
- a recent conference on emotional wellbeing had discussed whole school approaches to social, emotional and mental health; any other forums to discuss this would be welcomed;
- this was a national issue and efforts were being made to identify good practice and possible solutions from other authorities, however not all solutions would necessarily transfer easily to Herefordshire;
- support from the health sector for pupils with medical needs was not always forthcoming - Health Care Plans should be made available to a school and some schools had reported difficulty getting advice – work was continuing to improve links;
- the clinical support that had been long heralded was now being recruited to and would work predominantly but not exclusively with special schools;

- the reasons for the increase in the number of EHCPs produced annually were complex but partly due to the new requirement to have EHCPs for post 16 students potentially through to age 25.

The schools finance manager explained the recommendations in the report. He noted the trend of growth in the payment of top ups. Payments to mainstream schools had increased from around £60k a month to over £160k a month since 2014. Funding for the high needs block had not kept pace with the increase in demand. The issues had been discussed in great detail at the budget working group. The recommendations reflected those discussions and were intended as a short term fix while a fundamental review of the high needs service was carried out.

Consultation with schools had shown there was limited support for a future top slice of school budgets to support the high needs block. Most secondary schools were against this approach while primary schools were more mixed in their views. DfE regulations required support from the schools forum in order to implement transfer between the funding blocks and without a high level of support it was unlikely this could be progressed. The proposal for a top slice had therefore been withdrawn.

An additional proposal to introduce an economies of scale factor to top ups had also been put on hold following discussion with the working group. It was noted that the proposal would only have delivered a modest saving in the first year of operation.

The proposed budget for 2018/19 was as set out in the agenda papers. The budget balanced if the one off transfer of the surplus from the schools block was included and it was recommended that this be approved by the forum. The budget for 2019/20 would need to find additional savings as the surplus transfer of £324k was a one off figure.

Changes to the tariff scheme were explained. It was noted that special schools would be protected by the minimum funding guarantee and the SFM would provide them with further information on this in due course. Tariffs for the PRU would be reviewed at the end of the current contract.

The final decision on the high needs budget would be taken by the cabinet member for children and young people. Historically the cabinet member had generally followed the recommendations of the forum.

In the debate of the issues that followed it was noted that:

- the response rate to the consultation with schools was disappointing, particularly from primary schools, and forum members were asked to encourage more responses from their groups in future;
- projections of future overspends were based on the trends shown in the past few years, there was no evidence yet of any plateau in the numbers of ECHPs being issued although it was anticipated that the measures proposed would have some impact;
- procedures and thresholds were guided by the SEN code of practice and while the matrix would be reviewed to ensure that the interpretation was correct it was believed that Herefordshire was applying the thresholds consistently with national practice;
- early intervention was important to prevent or reduce the impact of needs and therefore costs from escalating;
- not all measures to support pupils incurred cost and these alternatives should be encouraged where appropriate;
- increased capacity at special schools would be considered, particularly for areas where there were gaps in provision, but this required ongoing revenue support as well as capital investment;
- schools had noticed a lack of support for families in the wider community;

- an increase in survival rates for very premature babies had led to an increase in children with very complex needs from birth, also increased diagnoses for conditions that might not have been picked up in the past;
- increases in survival rates only accounted for a proportion of the growth in EHCPs, there were other factors involved;
- monitoring would be required to check if the measures implemented were effective;
- the proposal to divide the tariff bands would more closely align funding with the level of need, previously there was a large jump in funding from band to band even when the needs of the pupil may have only just moved across the boundary;
- annual review should show evidence of the level of need, what provision was in place and how effective this had been;
- the budget working group would continue to discuss the high needs budget at regular intervals;
- use of central staff to monitor and moderate school support for SEN pupils was expensive to run and the HAN felt that this was not the best use of resources, some work would take place on improving annual reviews as a time-limited project using residual funding from the SEN reform grant;
- it was suggested that a system of moderation of annual reviews could be set up using SENCOs from all schools;
- many pupils already had a point value and could therefore be migrated accurately to the new tariff bands, those pupils who did not have a point value on record would be placed in the lowest equivalent to their current band to begin with, reviews would be carried out with schools to identify the correct points value for these pupils and funding would be backdated to April as necessary;
- clarity in the system was recognised as important and it was confirmed that a clear list of charges for services for schools would be published.

Resolved that:

Following the advice of the Budget Working Group, the high needs budget and savings plan, as set out in the schools consultation document and below, be approved for recommendation to the cabinet member for young people and children’s wellbeing as follows:

- (a) the High needs tariffs to mainstream and special schools be revised to a five point range (Option B) from 1st April 2018 (Post-16 providers from 1st September 2018) to save approx. £300k as follows**

Revised	Assessment	Funding
Tariff	Points	2018/19
Local		£
Offer	0-9	0
A1	10-14	680
A2	15-19	1,360
B1	20-24	2,355
B2	25-29	3,349

C1	30-34	3,937
C2	35-39	4,525
C3	40-44	5,113
C4	45-49	5,700
D1	50-54	6,568
D2	55-59	7,435
D3	60-64	8,303
D4	65-69	9,170
E1	70-74	10,115
E2	75-79	11,060
E3	80-84	12,005
E4	85-89	12,950
F1	90-94	14,028
F2	95-99	15,105
F3	100-104	16,183
F4	105-109	17,260

- (b) Tariffs for the pupil referral service remain fixed until the end of the current contract with the Herefordshire Integrated Behaviour Outreach Service (HIBOS) at which point the tariff allocations are revised with the purpose of reducing the current cost of the service by £50k pa;
- (c) Charges to schools be increased for Pupil Referral Unit services as follows
- (i) Key Stage 4 placement one-off charge increased to £7k from September 2018
 - (ii) Increased charges for Key Stage 3 and primary intervention be agreed with HIBOS for implementation from April 2018 to save £25k pa;
- (d) Budget reductions for the SEN Support services of £50k pa for SEN support and £15k pa for the equalities team be approved from April 2018;
- (e) The cost of a place at the resource units at Hampton Dene and Bishop's schools be decreased to £6k pa as required by the operational guidance received from the DfE for 2018/19 to save £160k pa;
- (f) The surplus funding of £324k retained in the schools block be transferred to the high needs block for 2018/19;
- (g) Further work to review the high needs services and costs be commissioned in conjunction with the School Forum's Budget Working Group (BWG) and

secondary and primary Headteachers to ensure that high needs expenditure is within the available funding from April 2020 onwards and the working group reports progress regularly to schools forum

- (h) Following feedback from schools the short term action plan set out in the schools consultation paper be amended as follows**
 - i) the proposal that the SEN protection scheme be funded from a top-slice in school budgets from April 2019 be withdrawn; and**
 - ii) the cap on the SEN protection scheme be gradually raised from £120 x number on roll in 2017/18 to £130 x number on roll in 2018/19 and £140 x number on roll in 2019/20 and potentially subject to further consultation £150 x number on roll in 2020/21**
 - iii) the SEN protection scheme be restricted to primary schools only**
 - iv) that an economies of scale reduction to all new and amended tariff payments to mainstream schools be withdrawn for 2018/19 and the Budget Working Group consider alternative options for inclusion in the autumn 2018 consultation as necessary**
- (i) Further consultation with schools be agreed for the autumn term 2018 setting out further proposals for the high needs services for 2019/20**
- (j) The high needs budget including the savings as above be approved as set out in Appendix 2.**

26. UPDATE ON LOOKING TO THE FUTURE

Mrs Rees gave an update on the planned use of an under-spend of £890k from the 2 year old nursery funding. A group had been working on this for the last two years with the aim of proactively supporting early year's children to stop issues escalating. Speech, language and communication had been identified as a significant area of difficulty and the majority of the funds would be focused on speech and language therapy plus a programme of support for families and some work with health visitors.

The necessary approvals for use of the under-spend had now been secured and the project would start after Easter to commission the required services with a roll out planned from September 2018. As the funds were limited there was a rigorous plan in place to ensure that the project did not overspend and there was also a focus on making the services self-sustaining in the longer term.

27. WORK PROGRAMME 2018/19 AND DATES OF FUTURE MEETINGS

The forum received the proposed work programme for the period May 2018 to May 2019 and the associated planned meeting dates.

Members of the forum were reminded that their current three year term of service would come to an end on 31 August 2018. Plans were being drawn up for elections for the next three year period. The forum would be asked to approve the timescales for the election at its meeting in July.

It was noted that it was likely that the DfE would make changes to the regulations governing schools forums as the hard national funding formula was brought in but that no information on this was currently available. Elections would be held on the basis of

the current regulations, guidance and constitution of the forum. Any changes would be brought to the forums attention as and when they were announced.

Resolved that:

- a) the dates for meetings of the schools forum during the 2018/19 municipal year be agreed; and
- b) the work programme for the schools forum for 2018/19 be agreed.

28. ANY OTHER BUSINESS

Directed change to the LMS scheme

The schools finance manager updated the forum on a directed change to the LMS scheme which had just been announced. This restricted loans to schools by the local authority to capital purposes only. Current regulations stated that any loans taken out by local authority maintained schools were transferred in the event of academy conversion. This may change in the future for loans deemed as revenue by the Secretary of State.

Co-opted governors on children and young people scrutiny committee

The chair of the children and young people scrutiny committee informed the forum of a vacancy for a secondary governor representative. The contribution of co-opted members to the scrutiny function was recognised as important and forum members were asked to help find a suitable volunteer to fill the vacancy.

The meeting ended at 11.06 am

Chairman

High Needs Block – Planning Ahead

8

MINUTE ITEM 25

Prudent forecasting and early action

- High Needs has not yet to overspent (nor has done for past 8 years)... and might not this year
- Early forecasting carried out and action has been taken at an early stage
- £800k+ taken out in 2015-16
- 10 • Significant growth in demand at present
- Alarm caused by flagging up 'worst case' scenario
- Absolutely aim to re-balance HNB to be self-sustaining
- Set out short term... and strategic

Analysing the issue – what we know and don't know

- Growth in mainstream high needs top-ups, mainly attached to EHCPs
- Growth in hospital school places
- Growth in special school places – SEMH places might be out of step
- Growth in independent special schools
- Greater pressure on PRUs incl. incr. PEx

15

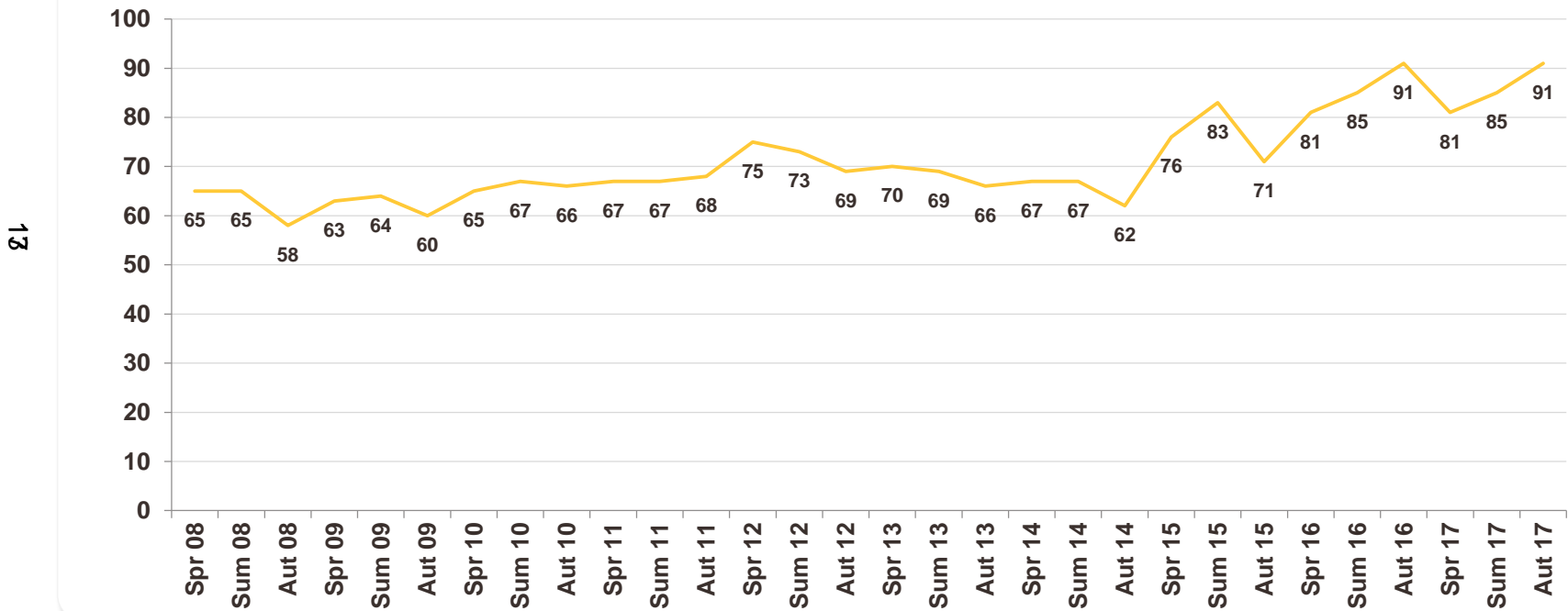
Lots of evidence that we are experiencing very similar patterns of growth to national picture

Additional Unfunded Pressures

- Post-16 Extension of EHCPs to age 25
- Hospital School duties
- Education for Tier 4 mental health in-patients
- ¹⁸• Growth in EHC Plans
- Growth in Tribunals

Evidence of demand

Number of Pupils on Brookfield School Roll
(Data Source: School Census)



Evidence of demand

Over past three years, Hospital and Home Teaching Team

Numbers Rise in numbers from 18 to 46 learners

¹⁸ 80% emotional and mental health presentation

All agreed as not being able to attend school by CAMHS

Cost of providing the service £129k to nearly £273 k

Ensuring point of entry to system is strong

- Added H/T representative
- Poorly completed applications returned – insufficient evidence
- 19 • Set out clearly what schools are expected to have done for each type of need
- Graduated response must be evident
- Delay in re-applying
- Additional layers of checking, e.g. Principal EP
- Re-working the descriptors in the matrix (summer)

Central Services

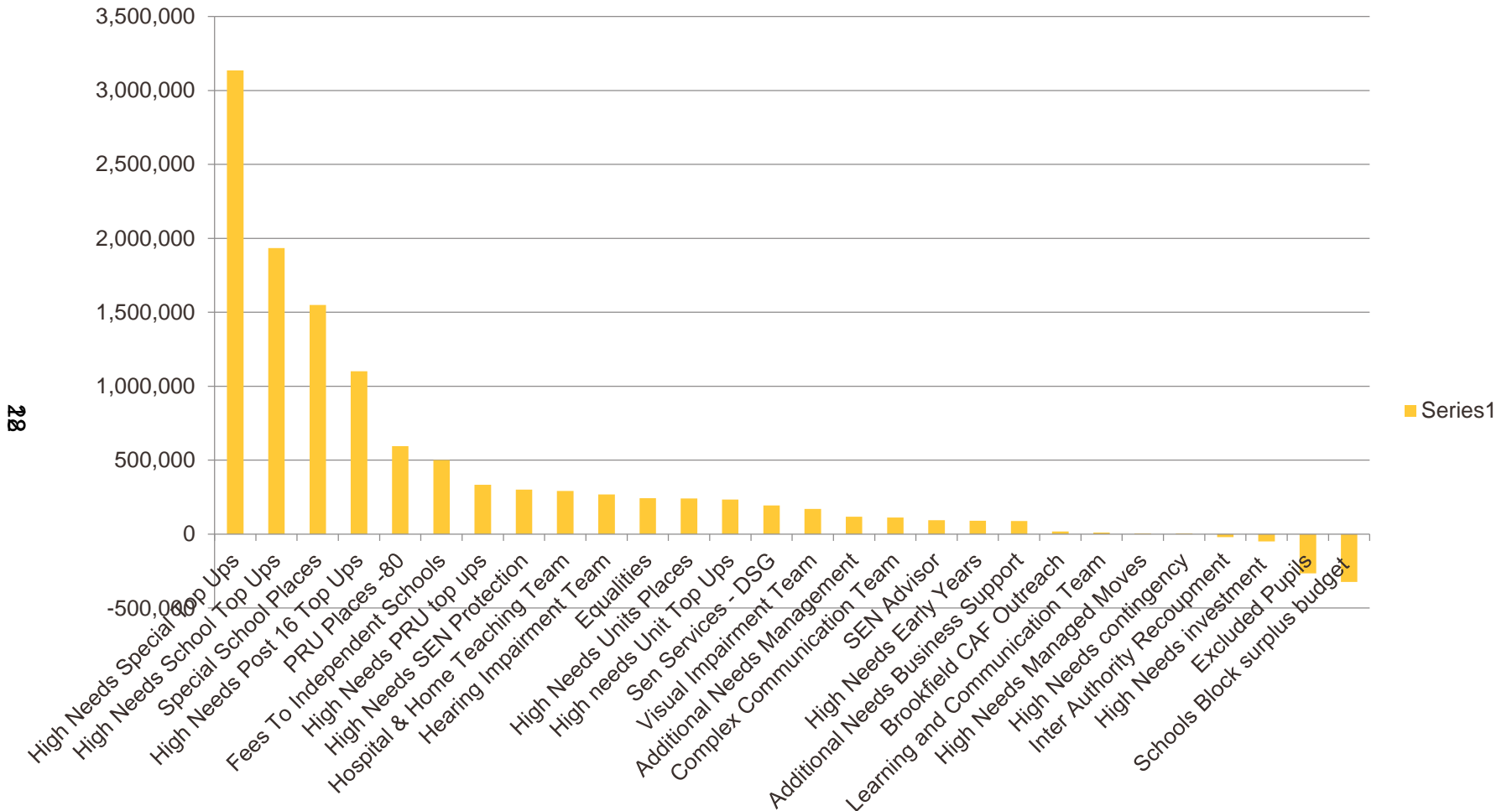
- £188k savings over past 5 years – 15%
- No cost-of-living increase – further 15-20%
- Vacancy savings always returned at year end
- Services free at point of delivery – what will be the buy-back? Unseen children
- Can only be taken once
- Keeping specialist staff
- Lag time in making changes – redundancy

Happy to review but needs to be informed debate

Strategic Approach

- The whole system is interrelated
- Collective responsibility
(Schools/settings/LA/Partners)
- Need to re-connect with a fully inclusive ethos – *‘not turn our back on any child’ H’fdshire Guiding Principles*
- ²⁷• Can we develop a system of partnerships to take responsibility?
- Investment in training/skills/coaching
- Important to understand consequences of actions and not to create perverse incentive

Cost of High Needs Services





Meeting:	Herefordshire schools forum
Meeting date:	Friday 6 July 2018
Title of report:	Local management of schools directed changes
Report by:	Director for children's wellbeing

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

The Department for Education has issued a directed change to the council's local scheme for managing schools. Schools Forum is asked to approve the change. The directed change is to ensure that loans agreed by the council with schools in future are for capital purposes only.

Recommendation(s)

That: The Herefordshire scheme for financing schools be amended as follows

(a) Add a new para 4.10 (f) as follows:

“Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year. Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income. If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new Academy school.”

(b) Replace the existing paragraph 4.8 as follows

“Where in the funding period, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, a local authority may add an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share (including any surplus carried over from previous funding periods) of the closing school for the funding period in which it closes”

(c) Add an additional paragraph to Annex F as follows

“A local authority can retain a central budget within the schools budget to fund the costs of new early retirements or redundancies by a deduction from maintained school budgets (excluding nursery schools) only, where the relevant maintained school members of the school forum agree to a de-delegated budget in accordance with Schedule 2 Part 7, of the Finance Regulations.”

Alternative options

1. The Secretary of State may by direction revise the whole or any part of the scheme for financing schools from such date as specified in the direction. There are no alternatives.

Key considerations

2. In order to make a directed revision to schemes, the Secretary of State is required by provisions in the Schools Standards and Framework Act 1998, to consult the relevant local authorities and other interested parties. Following consultation, the Secretary of State directs that from 22 March 2018 the text below shall be incorporated into the schemes of all local authorities in England.

Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year. Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income. If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new Academy school.

3. Updates have been made to the DfE's guidance, to mirror changes in the Schools and Early Years Finance (England) regulations 2018. Paragraph 4.8 has been updated to reflect changes on balances of closing schools as detailed under Regulation 25(9) as follows:

4.8 Where in the funding period, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, a local authority may add an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share (including any surplus carried over from

previous funding periods) of the closing school for the funding period in which it closes.

4. Annex B: Responsibility for redundancy and early retirement cost has been updated to reflect changes under Schedule 2 Part 7, of the Finance Regulations. This details how a local authority can retain a central budget within the schools budget to fund the costs of new early retirements or redundancies by a deduction from maintained school budgets (excluding nursery schools) only, where the relevant maintained school members of the schools forum agree.
5. This is a directed revision and as such all local authorities must update their schemes and ensure any new loans are in line with the criteria. From the 22 March 2018, DfE expects new loans to be made in line with the provision in schemes. Where a maintained school converts to academy, it will only continue to repay any new loan or changes to an existing loan agreed between the local authority and its predecessor maintained schools if it meets the criteria below

“to assist the school in spreading the cost over more than one year for a large one-off individual item of capital nature that has had/will have, a benefit to the school lasting more than one financial year “

6. From the 22 March 2018, the Secretary of State would consider whether to make a direction under paragraph 13(4)(d) of the Academies Act 2010, to the effect that a new loan would not transfer to the new academy school on a case by case basis and all applications would be viewed on their own merits. Every decision will take into account the purposes of the loan and if it is compliant with revised guidance. The revision to the criteria for agreeing loan schemes will not be applied retrospectively to existing loans when schools convert.
7. The recommended changes to the Herefordshire scheme for financing schools are set out in the appendix.

Community impact

8. In accordance with our code of corporate governance, Herefordshire Council is accountable for how it uses the resources under its stewardship, including accountability for outputs and outcomes achieved. In addition the council has an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies. The council is committed to ensuring openness and transparency and the recommendations of this report demonstrate the reasons for a policy change being made.

Equality duty

9. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
10. As this is a directed revision by the Secretary of State, we do not believe that it will have an impact on our equality duty

Resource implications

11. Currently outstanding loans total £835,917 and are split 20.7% capital and 79.3% revenue. There are 14 loans in total and 9 loans are each less than £20,000. All loans are on track to be repaid.

Legal implications

12. The recommended amendments to the Scheme are in accordance with updates to the Department for Education Guidance to reflect changes in the Schools and Early Years Finance (England) Regulations 2018. Department for Education Schemes for financing schools Statutory Guidance for local authorities March 2018 states that councils are required to publish schemes for financing schools setting out the financial relationship between them and the schools they maintain. In making any changes to their schemes, councils must consult all schools in their area and receive the approval of members of their schools forum representing maintained schools. Councils must take this guidance into account when revising their schemes, in consultation with the schools forum.

Risk management

13. The council will fully comply with the revisions to the scheme in so far as only capital loans that comply with the scheme requirements will be approved.

Consultees

14. All locally maintained schools have been consulted and no comments received. A copy of the amended scheme will be distributed to all locally maintained schools in September 2018. The council's S151 officer has been consulted and is content with the proposed changes to the scheme of delegation to schools.

Appendices

Summary of recommended changes to the Scheme for financing schools in Herefordshire

Background papers

None

Summary of Recommended changes to the Scheme for financing schools in Herefordshire

4.8 Balances of closing and replacement schools

New text:

Where in the funding period, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, a local authority may add an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share (including any surplus carried over from previous funding periods) of the closing school for the funding period in which it closes.

Deleted text:

When a school closes, any balance (whether surplus or deficit) reverts to the Council. It cannot be transferred as a balance to any other school, even where the school is a successor to the closing school except that a surplus transfers to an academy where a school converts to academy status under section 4(1)(a) of the Academies Act 2010. The allocation regulations make provision for successor schools to receive additional sums through the in-year supplement mechanism

4.10 Loan scheme – add new paragraph (f)

- a) The Council operates a form of loan arrangement for schools by way of actual payments to schools or expenditure in respect of a particular school, on condition that a corresponding sum is repaid from the school's formula budget (by the end of four years from the date of the loan). The loans are available to fund one-off purchases of equipment and certain types of capital works, and are allocated under arrangements determined by the Director of Children's Services and the Council's Chief Financial Officer. The maximum amount allowed for any one school is limited to 2% of the school's own formula allocation. Schools must be able to demonstrate their capacity to repay the loan and interest. Details of the loan scheme are included in Annex H.
- b) The loans will be financed in effect, subject to consultation with schools, by the balances in hand held within the Council's Accounts on behalf of the schools. The statutory right of schools to draw on their balances at any time will not be affected.
- c) The Council's budget statements show the amount centrally retained for devolved loan payments to schools, and the payments also appear in the out-turn statements.
- d) The loan scheme can operate only in respect of expenditure deductible from the ISB under the s.46 regulations.
- e) No provision has been made for any credit union approach to loans.
- f) Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year. Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income. If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new Academy school.

ANNEX F: add new final paragraph

RESPONSIBILITY FOR REDUNDANCY AND EARLY RETIREMENT COSTS

This guidance note summarises the position relating to the charging of voluntary early retirement and redundancy costs. It sets out what is specified in legislation and provides some examples of when it might be appropriate to charge an individual school's budget, the central Schools Budget or the local authority's non-schools budget.

Section 37 of the 2002 Education Act says:

(4) costs incurred by the local education authority in respect of any premature retirement of a member of the staff of a maintained school shall be met from the school's budget share for one or more financial years except in so far as the authority agree with the governing body in writing (whether before or after the retirement occurs) that they shall not be so met

(5) costs incurred by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.

(6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5); and in this subsection the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996 (c. 18).

The default position, therefore, is that premature retirement costs must be charged to the school's delegated budget, while redundancy costs must be charged to the local authority's budget. In the former case, the local authority has to agree otherwise for costs to be centrally funded, while in the latter case, there has to be a good reason for it not to be centrally funded, and that cannot include having a no redundancy policy. Ultimately, it would be for the courts to decide what was a good reason, but the examples set out below indicate the situations in which exceptions to the default position might be taken.

Charge of dismissal/resignation costs to delegated school budget

- If a school has decided to offer more generous terms than the authority's policy, then it would be reasonable to charge the excess to the school
- If a school is otherwise acting outside the local authority's policy
- Where the school is making staffing reductions which the local authority does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit
- Where staffing reductions arise from a deficit caused by factors within the school's control
- Where the school has excess surplus balances and no agreed plan to use these
- Where a school has refused to engage with the local authority's redeployment policy

Charge of premature retirement costs to local authority non-schools budget

- Where a school has a long-term reduction in pupil numbers and charging such costs to their budget would impact on standards
- Where a school is closing, does not have sufficient balances to cover the costs and where the central Schools Budget does not have capacity to absorb the deficit
- Where charging such costs to the school's budget would prevent the school from complying with a requirement to recover a licensed deficit within the agreed timescale
- Where a school is in special measures, does not have excess balances and employment of the relevant staff is being/has been terminated as a result of local authority or government intervention to improve standards

A local authority can retain a central budget within the schools budget to fund the costs of new early retirements or redundancies by a deduction from maintained school budgets (excluding nursery schools) only, where the relevant maintained school members of the school forum agree to a de-delegated budget in accordance with Schedule 2 Part 7, of the Finance Regulations



Meeting:	Herefordshire Schools Forum
Meeting date:	6 July 2018
Title of report:	Review of Schools Forum Membership
Report by:	Clerk to Herefordshire Schools Forum

Classification

Open

Decision type

This is not an executive decision

Wards affected

All wards

Purpose and summary

To review the membership of Herefordshire Schools Forum and the budget working group and to consider arrangements for election of members for the 2018-2021 term.

The composition of the forum is reviewed annually to ensure that Local Authority maintained schools and academies are represented proportionately on the forum, based on the number of pupils registered in each category of school, and that the membership complies with regulations. The term of service of current members of the forum is coming to an end and arrangements must be made to elect the new membership for the next three year term.

Recommendation(s)

That:

- (a) **the outcome of the annual review of proportionality is noted and no changes are made to allocations of seats on Herefordshire Schools Forum;**
- (b) **the allocation of seats on the budget working group be adjusted in line with the outcome of the proportionality review by reducing the number of seats allocated to local authority maintained secondary schools to one and increasing the number of seats allocated to academies to five; and**
- (c) **the timetable for elections to the forum for the 2018-2021 term, as set out in paragraph 17, is supported.**

Alternative options

1. The forum could recommend an increase or decrease in the total number of seats on the forum. This is not recommended as the current number of seats gives an appropriate spread of membership to represent the various types of school in Herefordshire, while remaining a manageable size.
2. The forum could choose to disregard proportionality in respect of the budget working group and retain the current allocation of seats. This option is not recommended as it is preferable for the effective functioning of the working group that the different types of schools in Herefordshire are fairly represented and the forum has previously determined that the working group should be broadly proportionate.
3. The forum could choose to adjust the number of seats on the working group in order to bring membership in line with proportionality. This is not recommended as the working group is currently an appropriate size to give a diverse range of input while remaining manageable for the detailed and technical work it carries out.
4. The forum could recommend the extension of the term of membership of current members until there is clarity on the future of regulations governing the forum. This is not recommended because while the introduction of the national funding formula may lead to the role of the schools forum being reviewed and regulations altered there is currently no information on when this might take place. A three year term of membership was adopted to ensure the membership of the forum was refreshed at reasonable intervals and the reasons for this remain valid. Any subsequent changes in regulations will be dealt with as and when they occur.

Key considerations

Membership of Schools Forum

5. Herefordshire schools forum is composed of 26 seats allocated between schools members, academies members and non-school members. Schools and academies members together must number at least two-thirds of the total membership of the schools forum and the balance between maintained primary, maintained secondary and academies members must be broadly proportionate to the pupil numbers in each category. The membership of the forum is reviewed annually to ensure the allocation of seats remains proportionate.
6. Herefordshire allocates 19 seats between the schools and academies members. One seat each is allocated to mainstream special schools, academy special schools and the PRU management committee. The 16 remaining seats are allocated to mainstream schools and academies, divided proportionally. The annual review has been carried out for 2018 and the results are set out below.
7. Regulations make no distinction between primary phase and secondary phase academies. Guidance states that Free Schools are to be classed as academies for the purpose of this exercise. The calculations of proportionality set out below are based on pupil numbers taken from the January 2018 school census and translate these proportions into numbers of seats on the forum, rounded as necessary.

8. Total pupil population in mainstream schools was 23,165 broken down as follows:

School category	Number of pupils	Proportion	Proposed number of seats (rounded)	Current number of seats
Maintained Primary	10,078	43.5%	6.96 (7)	7
Maintained Secondary	3,181	13.7%	2.20 (2)	2
Academies	9,906	42.8%	6.84 (7)	7
Total			16	16

9. Based on this assessment, no changes are proposed to the allocation of seats for the schools groups on the forum.

Membership of Budget Working Group

10. The Budget Working Group is a permanent advisory sub-group of the forum. Regulations prescribe how the forum itself is to be constituted but these provisions do not apply to the composition of sub-groups. The composition of the Budget Working Group is therefore a matter for the forum itself. It is open to the forum to agree to disregard proportionality for the working group, amend the number of seats or set minimum representation for particular groups
11. The forum agreed in October 2012 that the Budget Working Group would consist of 14 members. Two seats were allocated to early years settings and one to special schools. The remaining 11 places available to primary schools, secondary schools and academies, were to be allocated on a broadly proportionate basis based on pupil numbers in each category. The forum also agreed that there should be a minimum of one maintained school representative from the secondary sector and one academy representative from the primary school sector.
12. Total pupil population in mainstream schools was 23,165, broken down as follows:

School category	Number of pupils	Proportion	Proposed number of seats (rounded)	Current number of seats
Maintained Primary	10,078	43.5%	4.79 (5)	5
Maintained Secondary	3,181	13.7%	1.51 (1)	2
Academies	9,906	42.8%	4.70 (5)	4
Total			11	11

13. There has always been a need to round up or down to achieve the final allocation of seats. The proportion of pupils in maintained secondary schools has been falling since 2013 and it is increasingly difficult to justify rounding up the allocation of seats for this group while rounding the academies allocation down. In order to remain broadly proportional to the numbers of pupils it is recommended that the number of seats allocated to the maintained secondary category be reduced from two to one and the number of seats allocated to the academies group is increased from four to five.

Election Arrangements

14. Members of the forum serve a three year term as set out in the constitution, available to view at <http://councillors.herefordshire.gov.uk/ecSDDisplay.aspx?NAME=SD4613>. The last set of elections were held in 2015 and arrangements now need to be made for elections for the three year term starting in autumn 2018.
15. The allocation of seats on the forum is set out in section five of the constitution while appendix A to the constitution lists the electing or appointing body for each group and sub-group. No changes are proposed to either the allocation of seats or the electing or appointing bodies.
16. The constitution states that the deadline for electing and appointing bodies to inform the clerk to the forum of their new members will be not less than six weeks from the date of notification of the need for an election, taking account of school term dates. If sufficient members are not named by the deadline specified, the local authority must appoint a suitable individual to each vacant seat.
17. The proposed timetable for the election is as follows:

Report to schools forum on proportionality and proposed timescale for election	Friday 6 July 2018
Confirmation to electing and appointing bodies of numbers of seats allocated to each group and deadline for notification of new members	Monday 9 July 2018
Election window	9 July to 10 October 2018 (7 and a half weeks in term time)
Notification of new members to clerk by	5pm on Wednesday 10 October 2018
Welcome and agenda packs to members of the forum	Thursday 11 October 2018
First meeting of schools forum	Friday 19 October 2018

Community impact

18. The items considered and decisions made by the forum should have regard to what matters to schools and settings in Herefordshire and how the forum can best contribute to managing the current changing and challenging financial circumstances.
19. The constitution ensures that the membership of the schools forum continues to reflect the range of types of school and setting across Herefordshire and that all groups have the opportunity to shape the decisions of the forum.

Equality duty

20. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
21. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. In relation to schools finance it is the responsibility of individual governing bodies to commit expenditure according to the individual pupil need. However the decisions of the schools forum should have regard to this duty and the potential implications of any decisions made.

Resource implications

22. A budget of £12,000 has been allocated for administering the schools forum and associated activities for the 2018/19 financial year. This is funded from the dedicated schools grant received from central government and includes a modest budget for the commissioning of expert advice and reviews.

Legal implications

23. The schools forum is established under section 47A of the School Standards and Framework Act 1998. The current regulations pertaining to the operation and management of schools forums are set out in The Schools Forums (England) Regulations 2012.
24. The Education & Skills Funding Agency (ESFA) set out guidance on the operation of schools forums in September 2017. This document also gives examples of good practice which the EFA have drawn from a number of schools forums and the Department for Education. It is not designed to be prescriptive except where it refers directly to the Schools Forum Regulations 2012.
25. The council must ensure that the schools forum for their area is constituted in accordance with the regulations and is responsible for determining the size and composition of the forum, and the members' terms of office.

Risk management

26. There are no identified risks associated with approval of the recommendations contained in this report. If the recommendation to adjust membership of the working group is not supported there is a risk some categories of schools could feel that they are not fairly

represented. If the recommended timetable for elections is not supported then new members will not be in place for the first scheduled meeting of the forum in the autumn term and this could have a knock on effect on the timescales for consultation on the 2019/20 school budgets.

Consultees

27. The proposed timetable for elections was circulated to electing and appointing bodies and to all current members of the forum on 30 April 2018. No comments were received.
28. Members of the budget working group have been consulted on the proposed adjustment to the allocation of seats and any feedback will be reflected in this report. [awaiting final comments]

Appendices

None

Background papers

None