

Subject:	Funding for pupils at Self Managed Learning College (SMLC)		
Date of Meeting:	16 July 2013		
Report of:	Executive Director of Children's Service		
Contact Officer:	Ellen Mulvihill (Head of Behaviour and Attendance)		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report provides information regarding the funding of pupils at the Self Managed Learning College (SMLC) in Brighton who have been home educated at parental request;
- 1.2 It provides information on current and future funding arrangements for these children following advice received from the Department for Education (DfE) and informs members of the current consultation on whether to fund placements at SMLC.
- 1.3 The committee notes the issues raised and the consultation with the affected parents.

2. RECOMMENDATIONS:

- 2.1 It is recommended that:
 - (i) the committee notes the issues raised and the consultation with the affected parents, and
 - (ii) the results of the consultation will be brought to the committee in October 2013 for discussion and decision

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Background

- 3.1 Part 2 of the DfE Elective Home Education Guidance, Parental Rights and Responsibilities (2007), states that parents may decide to exercise their right to home educate their child from a very early age and so the child may not have been previously enrolled at school. They may also elect to home educate at any other stage up to the end of compulsory school age. Parents are not required to register or seek approval from the local authority to educate their children at home. Parents who choose to educate their children at home must be prepared to assume full financial responsibility, including bearing the cost of any public examinations. However, local authorities are encouraged to provide support where resources permit;
- 3.2 Part 5 of this same guidance entitled “Support and Resources”, states that local authorities do not receive funding to support home educating families, and the level and type of support will therefore vary between one local authority and another. However, it is recommended that all local authorities should adopt a consistent, reasonable and flexible approach in this respect, particularly where there are minimal resource implications. Some local authorities may be able to offer additional support to home educating parents, but this will vary depending on their resources. Example of additional support includes:
- Provision of a reading or lending library with resources for use with home educated children;
 - free, or discounted, admission into community programmes;
 - access to resource centres;
 - National curriculum materials and curricula offered by other educational institutions;
 - Information about educational visits and work experience;
 - Providing assistance with identifying exam centres willing to accept external candidates.
- 3.3 In the previous funding system up to 2012-13, the Dedicated Schools Grant was calculated by totalling the number of pupils on various annual census forms and multiplying them by a guaranteed unit of funding. Home educated pupils for whom the local authority was providing significant financial support in respect of special needs could be entered on the Alternative Provision Census and therefore the LA could claim back the funding from the DfE. It was for this reason that there was an initial decision in 2012 to fund a small number of home educated pupils at the SMLC;
- 3.4 For the financial year 2013/14, various changes to the school and local authority funding system have come into effect and the DfE has provided revised guidance for local authorities on the funding of home educated children. This is the only change made to existing Government guidance on home education;
- 3.5 The new guidelines state that the LA is now no longer able to access funding through the Alternative Provision Census and that the provisions must apply directly to the DfE for funding. LAs are not able to do this on behalf of the provisions. The LA must instead give consideration to funding home educated pupils directly through the High Needs block within the Dedicated Schools Grant;
- 3.6 In the new funding system from 2013-14, all special educational needs funding,

other than in mainstream schools, comes from the local authority's high needs block within the Dedicated Schools Grant. The high needs block is not based on pupil numbers but on the historic spend on high needs of each local authority: the Alternative Provision Census is no longer used for funding purposes. So while home educated pupils supported by the authority can still be entered on the census, this no longer triggers additional funding. Local authorities' responsibilities in respect of high needs extend to all pupils who are ordinarily resident in their area, including those who are home educated. Local authorities have flexibility to move money between the other blocks of DSG and the high needs block in order to meet high needs in their area;

- 3.7 With effect from September 2013 FE and sixth form colleges can admit pupils aged 14 or 15 and receive funding for them direct from the Education Funding Agency. This includes not only specific provision for groups of pupils but also individual admissions of pupils who would otherwise be home educated, and who may well be educated with young people aged 16-18. Therefore LAs are not expected to pay fees to the colleges for these pupils;

Current Situation

- 3.8 In Brighton & Hove we are currently aware of 169 children who are home educated. We currently fund 16 pupils at the SMLC. The college provides educational programmes for 7-16 year olds who choose not to be in school. It is a registered educational charity and forms part of the Centre for Self Managed Learning which promotes self managed learning within organisations;
- 3.9 The college is not a DfE registered school and thus is not subject to Ofsted inspections;
- 3.10 Funding for the existing pupils at the SMLC has previously been agreed on the basis of the previous funding arrangements which allowed the Authority to reclaim the full cost via the Alternative Provision Census. There was therefore no cost implication for the Authority. The cost of a place at the SMLC is currently £3,900 per academic year. This makes a total of £62,400 for the 16 pupils we currently fund. Four of these pupils will reach statutory school leaving age at the end of June 2013;
- 3.11 The reasons for these pupils being home educated have been recorded as follows:
- 2 have been home educated since arriving in Brighton and Hove
 - 1 moved in from another LA where the child was home educated
 - 8 cited their unhappiness with their previous school
 - 3 alleged bullying
 - 1 was unhappy with their school allocation
 - 1 previously attended an independent school where they were unhappy

There is no evidence to suggest that these pupils have any special educational needs although one child is cited as having Aspergers Syndrome;

- 3.12 Parents of those pupils we currently fund are making enquiries as to whether or not we will continue to fund their child's place at the SMLC and Ian Cunningham from the SMLC has written to both the Assistant Director: Education and Inclusion and the Lead Member for Children's Services requesting that we continue to fund places for home educated pupils from the high needs block funding;
- 3.13 The high needs block funding is fully committed to provide services to children in Brighton and Hove for the financial year 2013 – 14;
- 3.14 The consultation on future funding of placements at the college is a direct result of the funding changes being introduced by the DfE. From 2013/14 there will no longer be any provision which entitles the Authority to recoup the cost;
- 3.15 Should the Authority continue to fund placements at the College, there is also an issue of equitable funding in relation to the other 169 pupils in the city who are known to be currently home educated. If all these pupils were to receive a similar level of funding this would represent a total cost in excess of £659,000 pa.
- 3.16 Given the potential scale of the funding implications and to allow parents of children at SMLC the opportunity to make representations, a consultation of those affected has started. A consultation document was issued to parents on 17 June 2013. This is attached as Appendix 1. The consultation is due to end on 9 September 2013.
- 3.17 An informal meeting was held with parents whose children attend the SMLC and Ian Cunningham at Hove Town Hall on 24 June 2013. Those present were Ellen Mulvihill, Behaviour and Attendance Lead, Maggie Baker, Partnership Adviser, Access to Education, Gavin Thomas, Education Other than at School Co-ordinator and Cllr Sue Shanks. As a number of councillors had been contacted by parents regarding the funding of their children's placements, a briefing e-mail was sent to all members on 13 June. This is attached as Appendix 2.
- 3.18 Although this a decision which could be made by the Director of Children's Services under delegated powers, as this is a matter that is of particular interest to a number of members it is considered appropriate to bring it to committee for decision. The results of this consultation together with a detailed report will therefore be presented to Children and Young People Committee on 14th October 2013 for decision.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 Consultation of those affected has started. A consultation document was issued to parents on 17 June 2013. This is attached as Appendix 1. The consultation is due to end on 9 September 2013.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 No budget has been allocated for this provision from the Dedicated Schools Grant in 2013/14. Consequently, if a decision is made to continue to fund 16 places there will be a requirement to find a minimum of £62,000. As outlined in the report, there is also a risk that if the LA funded the current places, there may be an issue of equitability for other home educated pupils which would potentially have a significant budgetary impact. Clearly, if there is no legal requirement to pay for the fees of pupils at the Self Managed Learning College, and parents no longer wished to home educate, a much more affordable resolution would be to re-integrate pupils back into maintained provision;

5.1.1 The cost of providing equitable funding to all home educated pupils would be £659,100. There is a further financial risk as it is highly likely that should both schools and parents become aware that they can access the equivalent AWPU by withdrawing their child and the schools would not have to register their results against their outcomes that this figure may increase significantly further with the incumbent costs to the LA.

Finance Officer Consulted: Steve Williams

Date: 24/05/2013

Legal Implications:

5.2.1 In law the responsibility for a child's education rests with their parents. Parents have the right to choose to educate their child at home rather than at school, both under the European Convention on Human Rights, and as a matter of domestic law. Under the Home Education Guidelines 2007 parents must ensure that their children receives suitable full-time education for as long as they are being educated at home.

5.2.2 Where parents elect to educate their children otherwise than at school they are entitled to some support from the local authority, at a level to be determined by the authority, but are not entitled to funding for alternative private education. The key principle is as stated in guidance issued by the then DCSF in 2007, "Elective Home Education: Guidelines for Local Authorities". This provides that when parents choose to electively home educate their children they assume financial responsibility for their children's education.

5.2.3 There is no requirement upon the local authority to continue to fund the current provision. In providing the current or future funding the local authority is not endorsing the suitability of the education being provided by the institution receiving the funding. The "College" is not a school, and is not inspected as a school.

5.2.4 If funding is to be provided from the authority's own resources upon a discretionary basis the authority must be satisfied that the use of limited resources in this way meets the fiduciary duties of the council, and that any scheme which provides for discretionary funding is fair and transparent across home educating parents across the city.

5.2.5 Local Authorities continue to have the power to fund home educated children who are considered to have special educational needs or who require alternative provision to that in schools from the high needs block within the Dedicated

Schools Grant, as the responsibilities of local authorities in respect of high needs will include those children who are home educated. Individual pupils would need however to satisfy the Authority that they have the high needs which would merit such funding. The local authority would need to be satisfied that the provision in question is capable of providing suitable education to address the special educational needs identified.

- 5.2.6 Parents of affected children will have a legitimate expectation, based on the fact that it is usual practice in the Authority to consult on such matters, to be consulted on the possibility that the Authority might not agree to fund their children's placements at SMLC. Consultation exercises should provide consultees with adequate information to enable them to formulate an informed response, and adequate time in which to consider the proposals. This consultation will last for 12 weeks which will still allow time for a decision on future funding to be taken within the desired timescales.

Lawyer Consulted: Natasha Watson

Date: 08/07/2013

Equalities Implications:

- 5.3 We have carried out an equality impact assessment and whilst individuals attending the SNLC may be in the first instance negatively impacted by this decision there is no evidence that this is related to them being a member of a protected group. The local authority can offer support to these young people to support transfer into other provision. Concern is that to continue funding would be inequitable to other home educating families, and also potentially divert funds away from the most vulnerable children and young people in the city; This is attached as Appendix 3

Sustainability Implications:

- 5.4 N/A

Crime & Disorder Implications:

- 5.5 The risk implications are outlined in the body of the report. (Jackie Algar 24.5.13)

Risk and Opportunity Management Implications:

- 5.6 N/A

Public Health Implications:

- 5.7 N/A

Corporate / Citywide Implications:

- 5.8 N/A

Equalities Implications:

5.9 See 5.3

Risk and Opportunity Management Implications:

5.10 N/A

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 N/A

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 N/A

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix 1 – Consultation document
2. Appendix 2 – Briefing e-mail to members
3. Appendix 3 – Equalities Impact Assessment (EIA)

