

Subject:	Funding for pupils at Self Managed Learning College (SMLC)		
Date of Meeting:	18th November 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 should be read in conjunction with the two previous committee reports submitted to the Children's Committee on the 16th July 2013 and 14th October 2013, in respect of direct local authority funding of pupils in receipt of elective home education who are still in attendance at the SMLC. It is, therefore, not intended to repeat the information which has been included in the previous two reports;
- 1.2 The purpose of the report is to provide further information about issues that might be required to enable the Committee to decide on the recommendations listed below, the Committee not yet having reached a decision about future funding.

2. RECOMMENDATIONS:

- 2.1 It is recommended that:
- (i) the committee notes the changes in the capacity of local authorities to recoup the cost from the DfE of children who are in receipt of elective home education attending a college of further education or other "alternative provider", which means that the previous criteria under which the local authority had agreed to fund attendance of some pupils in receipt of home education at the SMLC is now defunct;
 - (ii) the committee notes that continued funding was agreed by the former Interim Director of Children's Services (DCS) until the end of this academic term to allow time for alternative arrangements to be made for those affected children who were attending the SMLC, and for consultation on the way forward;

- (iii) The committee notes the consultation and the issues raised by the affected parents and pupils, and further notes the ongoing offer of support and advice which has been made to any affected pupils, including the possibility of attendance at a maintained school;
- (iv) The committee notes that the education of those pupils whose parents chose to educate them otherwise than in school continues to be the responsibility of their parent according to the law;
- (v) the committee notes that if it meets the requirements of the DfE it is possible for colleges, including the SMLC, to reclaim from the DfE the fees otherwise charged to the parents of children in receipt of elective home education;
- (vi) a decision is made that from December 31st 2013 no further direct funding will be offered to provide for children who are in receipt of education otherwise than at school to attend a fee paying college, including those children receiving elective home education currently attending SMLC.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Background

- 3.1 The decisions taken with regard to funding the SMLC are in summary as follows:

In January 2012 the then Director of Children's Services (Terry Parkin) agreed to provide local authority funding to pupils in receipt of elective home education to attend college where it was possible to reclaim the funding via the Alternative Provision Census. The criteria by which the funding could be claimed stated that:

'No funding can exceed the amount that the Council can recoup from the Department for Education.'

- 3.2 In September 2012 prior to the commencement of the academic year, the criteria was changed so as to mean that the authority exercised its discretion to agree the funding for any children who were in receipt of elective home education whom could properly be included on the Alternative Provision Census, irrespective of how long they had been home educated. In the event the only children whose parents requested this funding attended either the SMLC or Plumpton College;
- 3.3 Correspondence sent to parents at the time clearly stated that the funding was available for the academic year 2012/13 and that it was available on the basis of the students being registered as 'home educated'.
- 3.4 In April 2013 the capacity of the LA to reclaim the funding was removed when the DfE notified the LA that the funding regime upon which the decision had been conditional was withdrawn. This meant that the criteria previously agreed for funding would become defunct. The changed guidance is appended at **Appendix 1**;

- 3.5 The only pupils directly affected at that time were attending the SMLC. This is because claims for Plumpton College could still be recovered, as Plumpton College is a recognised College, and there is specific provision for the authority to be able to recoup the fees for those fees arising in 2012/13, and in future years there is provision for recognised Colleges to reclaim the fees for their students directly;
- 3.6 Prior to the consultation with parents at the SMLC commencing in June 2013, the then Interim DCS (Heather Tomlinson) exercised her discretion to agree funding for those pupils already supported by the LA until December 2013 . The funding for this was to be from the projected underspend of the Dedicated Schools Grant (DSG). The basis of this decision is as set out in the July committee paper, and as described to parents during the consultation period in the following terms:

"Pending a decision being made on future funding the Authority will continue to fund currently supported pupils at SMLC until December 2013, in order to allow any pupils who wish to transfer back into mainstream provision to receive transition support for reintegration as required, and for any assessments that might be required to be undertaken. "

Current Situation

- 3.7 At the last committee meeting on 14 October 2013, the committee was unable to reach an agreement regarding whether or not there should be any future funding for pupils currently benefiting from LA funding beyond the end of the current academic term. In the event that no decision is made by the committee, the status quo applies;
- 3.8 In this case the status quo is that the criteria which had applied to the funding of places of children in receipt of elective home education no longer applies, as it was a specific criteria that the LA could enter the child on the census return to the Department for Education, and that no funding could exceed the amount that the Council could recoup from the DfE. In these circumstances the Interim DCS, Heather Tomlinson exercised her discretion to agree funding until December 2013, in order to provide for an opportunity for transition to other arrangements, and so as to allow a period of consultation to look at future alternatives.
- 3.9 In short the only decision currently in operation is that there is funding until the end of this academic term;
- 3.10 The LA has contacted the parents of students attending the SMLC to advise them of the current situation with regard to funding and to offer support with regard to future educational options in mainstream schools;

Options for Parents of children at the SMLC who are currently supported by the LA

- 3.11 If the recommendations to the committee set out in section 2.1 are agreed to there are a number of options that both the SMLC and the parents of children currently attending the provision will need to consider.

3.12 The Local Authority believes that there are 16 young people attending the SMLC currently. One of these young people is being funded by a mainstream school and 11 are funded this term by the LA . There are a number of options available to the parents of these 11 young people:

1) Parents assume financial responsibility if they wish to continue to make use of the SMLC. The cost of this to the parent is understood by the LA to be £3900 per annum which if the SMLC would agree to staggered payments works out at £325 pcm. A proportion of parents were paying these fees before direct local authority funding became available;

2) Parents provide a suitable education through alternative home education means;

3) Parents can enrol their child in a mainstream school;

4) Any and all parents can take advantage of the offer of support of the local authority

Letters were sent on 23rd October 2013. A copy of those letters can be found at **Appendix 2** and demonstrate that support will be made available to parents to address any issues relating to special educational needs and possible bullying concerns;

3.13 The SMLC has a number of funding options that it might want to explore:

1) Under the DfE funding criteria the SMLC could reclaim the fees directly from the DfE if they fulfil the DfE criteria as a college:

The guidance states as follows:

“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. We would therefore not expect local authorities to be paying fees to the colleges for these pupils.”

2) As indicated in the previous report, the SMLC could look at becoming a free school;

3) The SMLC can work with mainstream schools and accept direct funded referrals from them;

4) As a charity the SMLC can of course consider raising funding for bursaries to support the funding of pupils who cannot otherwise afford their fees.

3.14 In all the circumstances it is the recommendation to the committee that following the expiry of the current academic term, from December 31st 2013 no further direct local authority funding will be offered to provide for children who are in receipt of education otherwise than at school to attend a fee paying college, including those children receiving elective home education currently attending

SMLC.

- 3.15 For the avoidance of doubt this decision will not affect the discretion of maintained schools to continue to use the SMLC for the provision of education to some pupils on the school roll, where appropriate, and at their own discretion, as further indicated at paragraph 4.2 below.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 The consultation process has been outlined in previous papers.
- 4.2 At a meeting of the Secondary School Partnership of Headteachers on 16th October 2013, the Headteachers expressed their interest in the possibility of placing their students at the SMLC where deemed appropriate for the student, in the event that the school agrees that that it cannot meet the educational needs of the child in mainstream provision. This is of course entirely at the school's discretion, and the school would assume funding responsibility for those places.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1.1 The financial implications remain as outlined in previous papers although to correct the figures previously provided which worked on the basis of providing funding for 3 terms rather than the two remaining of this academic year:

Finance Officer Consulted: *Steve Williams* *Date:*

Legal Implications:

- 5.2.1 By 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.
- 5.2.2 Under the S7 Education Act 1996 the parent of every school age child shall cause them to receive "efficient full time education, suitable to their age and aptitude and any special educational needs they may have" – either by attendance at school, or by "education otherwise". The concept of "education otherwise" is more commonly described as elective home education.
- 5.2.3 The young people who are the subject of this report are regarded in law as being home educated. The SMLC is not a school. It is a provider of private education. The responsibility for providing suitable full time education rests with the parents of those pupils attending the SMLC who are not enrolled with a mainstream school.
- 5.2.4 As indicated in the body of the report the relevant Guidance to local authorities ("Elective Home Education: Guidelines for Local Authorities") provides that when parents choose to electively home educate their children they assume financial responsibility for their children's education.

- 5.2.5 The previous basis upon which funding had been provided to the young people directly affected by this paper is no longer available. The current guidance to local authorities in respect of the funding of home educated children can be found at **Appendix 1**.
- 5.2.6 Since as indicated in the body of the report there is no obligation in law upon the LA to fund any such scheme, members should be satisfied that any proposals for the criteria for continuing funding for individual pupils fulfils the fiduciary duty of the local authority, and is equitable.
- 5.2.7 Any provider of private education to home educated pupils should be selected according to proper and open criteria. If members wish exceptionally to provide future funding for the fees for children in receipt of elective home education to attend the SMLC alone, the exceptional basis of this decision making should be made clear. If the funding is to be time limited, again the criteria should be explicit, clear and reasoned on the face of the decision to reduce the prospects of any ongoing funding setting an unintended precedent for other similar requests.

Lawyer Consulted: Natasha Watson Date: 24 October 2013

Equalities Implications:

- 5.3.1 These remain as outlined in previous papers. The LA has sought to minimise the impact on students by offering support to parents with seeking placement in mainstream schools.

Sustainability Implications:

- 5.4 N/A

Crime & Disorder Implications:

- 5.5 The risk implications have been outlined in previous reports

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 N/A

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**

The changed guidance issued by the DfE in April 2013 regarding funding to LA's.

2. **Appendix 2**

A copy of letters sent by the LA on 23rd October 2013 demonstrating that support will be made available to parents to address any issues relating to future options for their child's education.

