

Schools Forum Meeting 18 January 2017

2017-18 Financial Pressures arising from Education Services Grant removal: Additional Information

1 Purpose of the Report

To confirm the service delivery implications of a decision concerning the transitional element of Education Services Grant allocated to DSG.

2 Recommendations

Schools Forum is asked to note the information in coming to a view about the allocation of the ESG transitional grant..

3 Summary

The report follows one addressing the withdrawal of Education Services Grant (ESG) from Local Authorities, with transitional ESG funding re-allocated to DSG. Schools Forum asked at its last meeting that a business plan be presented at the meeting on 18 January 2017 outlining the budgetary position if the Forum agrees to the proposals or if the Forum disagrees with the proposals, what the services are and a judgement as to whether services are needed or could be cut.

This response outlines the services in question and addresses the questions of viability and impact.

4 Education Services Grant related activities in Wokingham

The services provided across WBC for those Education Services Grant related activities were set out in the previous report, amounting to the £2.918m total cost, funded from Education Services Grant and Wokingham Borough Council. Additional detail on those services is now added in annexes to this report. Thus the challenge was to identify sustainable levels of activity and sources of funding for these services, when £1.8m of ESG is removed or reduced to £380k, and is subject to a decision of Schools Forum.

5 Future Funding Options

To address the ESG funding shortfall a number of income sources were identified, with a proposed solution to balance the budget on the basis of the nationally expected contributions from DSG and the Early Years grant, an additional contribution of £725 from Wokingham Borough Council, and reductions in posts. The service reduction proposals from the previous report are set out in table 1 below.

In the event of the £380k ESG transitional funding not being available, it is assumed that the saving would need to come from staffing reductions from teams excluding Early Years, for which no DSG is sought. On the basis of a 5.56 FTE reduction yielding £276k, an additional loss of 7.57 posts would be needed. An example of how that would look is given in table 2.

Table 1: Summary of Children's Services establishment reductions (December)

Function	Budget FTE	Proposed FTE Reduction	Proposed FTE	Proposed £k Reduction
School Improvement	4.60	-1.50	3.10	-96
Education Welfare inc Child Performance	4.66	-1.00	3.66	-49
Special Educational Needs	6.40	-0.58	5.82	-20
Early Years	6.80	-1.00	5.80	-25
Educational Psychology	6.20	-0.99	5.21	-41
Strategy & Leadership	2.33	-0.50	1.83	-47
	30.99	-5.56	25.43	-279

Table 2: Illustration of contingent additional service reductions

Function	Budget FTE	Original FTE Reduction	Contingent FTE Reduction	Resulting FTE
School Improvement	4.60	-1.50	2.5	2.1
Education Welfare	4.66	-1.00	3.0	1.66
Special Educational Needs	6.40	-0.58	3.0	3.4
Early Years	6.80	-1.00	1.0	5.8
Educational Psychology	6.20	-0.99	3.0	3.20
Strategy & Leadership	2.33	-0.50	0.63	1.7
	30.99	-5.56	-13.13	17.86

The loss of nearly half of the Learning and Achievement posts as illustrated above would present insuperable service delivery problems, such that it is hard to envisage viable services being maintained. The annexes below set out the statutory requirements for Local Authorities' education functions. It is considered that those functions could be delivered under the reductions illustrated in table 1, but not under those in table 2.

Annex 1: School Improvement

Schools Causing Concern

Local Authorities retain a legal responsibility for performance in the area as a whole (including academies), under the 1996 Education Act. Ofsted conducts termly HMI performance monitoring visits for which the ability to present detailed, collated and analysed data is needed. Ofsted expects the LA to identify and act on areas of underperformance, in our case early years, phonics and performance gaps. Of these the first two have been successfully addressed; the last has presented challenges to Wokingham as it has to other similar LAs.

Section 251 guidance refers to 2006 Act *powers* relating to schools causing concern, particularly issuing Warning Notices and follow-up action. Statutory guidance asserts: “It is expected that local authorities will use their powers to issue warning notices in the schools which they still maintain”. That would mean having a function which can identify:

1. which schools ought to receive preliminary warning notices, because statutory warning notices rely on there having been prior warnings that have not been heeded;
2. which schools having received such preliminary notices have failed to meet relevant targets and merit a statutory warning notice;
3. what the content of either form of notice should be (essentially the short term improvement targets for the school),
4. whether after 15 days the school has complied with the notice (met targets),
5. the appropriate statutory action (eg remove delegation, apply for an IEB, add governors, require the school to enter into arrangements)
6. the grounds on which to defend any appeal against those decisions.

Ofsted judgements provide insufficient information to be relied on for these actions, because Warning Notices must have targets which are assessed after a 15 day period: Ofsted reports identify improvements needed, but not those to be achieved in such a short time. In any case the principle is that the Warning Notice precedes and averts a negative inspection.

This is all guidance to which the LA must *have regard*. The guidance states it is for (inter alia) “...Local authorities, who must have regard to it as statutory guidance in how they use their powers of intervention in their maintained schools”. The “how” rather than “whether” appears to imply that the use of intervention powers is not optional; opting not to invoke them would fetter discretion and give rise to risks (below). Meanwhile Ofsted maintains a public record of the frequency of use of LAs’ warning notice powers.

As long as the concept of the maintained school remains, LAs have financial liabilities when a school fails an Ofsted inspection. Related costs will typically bring a school into deficit, with interim heads costing £600/day. Such a deficit becomes a charge on the LA general fund when the school becomes a sponsored academy. An effective SI function acts as a preventative. Supporting schools causing concern in this way is a call on LA officers’ time, without which the LA would need to procure consultancy at £5-600/day if it wished to minimise risk. Estimates of the cost of dealing with special measures are in the region of £250k/school.

Where a maintained school is judged to require special measures the LA must prepare a statement of action and is under a duty to take all reasonable steps to co-operate with the RSC in the academy conversion process. Preventing failure in schools causing concern like this is a call on LA officers’ time, without which the LA would need to procure consultancy.

The LA also needs to make educational judgements in the procurement process for a new school, and to advise governors on candidates in headteacher recruitment.

Governance

Statutory duties require the LA to

- Make and maintain instruments of government for maintained schools
- Arrange LA governor appointments.

Currently WBC does much more than that by way of advice and training, on a traded basis which covers costs with the exception of internal recharges. Marginal pricing adjustments would potentially cover those. A statutory minimum service would remove the possibility of

covering its residual cost, and would remove from local schools the opportunity to tie into a service which appears to be widely valued.

Monitoring National Curriculum Assessment

The LA must moderate KS1 assessments in all schools over four years, i.e. 25%/year, and must appoint a person to do so. Similar requirements exist for Phonics (10%), KS2 & 3, (not ES funded), but KS3 moderation is not currently done. There is a need to ensure schools submit data to LA, and LA to the CAA, with a duty to assure security requirements are met in the administration of testing.

This duty is referred to in the April 2016 White Paper but not in the consultation on LA funding, so its future appears to be unchanged. It is difficult to see what alternative there is to Local Government for discharging this function nationally without establishing a new operational quango.

The costs and resources of Monitoring National Curriculum Assessment are embedded within School Improvement.

Religious Education

LAs must set up a Standing Advisory Council on RE (SACRE). That also involves publishing an agreed syllabus for RE reflecting local cultures. SACRE budget is typically about £6k/year to service termly meetings, networking, CPD and review of syllabus. Duties are:

- to advise the LA on matters connected with religious worship in community schools and in foundation schools which do not have a religious character. Religious education in these schools is to be given in accordance with the locally Agreed Syllabus;
- to advise the LA on matters connected with collective worship in schools not designated as having a religious character;
- to publish an annual report on its work and on actions taken by its representative groups;
- to require the LA to review the locally agreed syllabus for religious education at least every five years.

Newly Qualified Teachers

The local authority, which acts as the appropriate body for NQT induction, has the main quality assurance role within the induction process, and ensures that:

- head teachers are meeting their responsibilities by ensuring the school is offering appropriate support, guidance, monitoring and assessment.
- induction tutors are trained and supported and will respond to requests for assistance and advice as requested by schools.
- the school takes the necessary action to address areas of underperformance, including holding meetings with the NQT, head teacher, induction tutor and mentor and facilitating negotiations between the school and the NQT's professional association when appropriate.

Records of all NQTs undertaking induction are sent to the Teaching Agency each term as required. Following completion of induction, the appropriate body makes the final decision

following recommendation from the head teacher on whether the NQT has met the relevant standards or whether an extension is required and ensures that all relevant parties are notified.

Statutory guidance issued in 2012 includes a requirement for the appropriate body to consult head teachers on the nature and extent of the quality assurance procedures it operates or wishes to introduce.

The costs and resources of Newly Qualified Teachers induction are embedded within School Improvement.

Comments

- A preventative service is needed if risks identified above are to be managed under current duties
- Current school improvement income-generating functions include: Headteacher performance management; NQT support; CPD. Income from these is £60-70k
- SACRE and the RE duty is an anomaly, being the only curriculum area in which a LA rather than national or individual school policy is required. Some LAs have illegally ceased to operate SACRE; this has potential equalities implications.
- A minimum governance function would require less staffing, and potentially not in children's services. The current arrangement is close to being self-funding however, and buy-back is substantial
- The current pattern of termly SIO visits to primary schools would not be viable under the staffing proposals in table 1 of the report. Annual visits backed up by data-transfers would be necessary for most schools in the local "gold" and "green" categories, with targeted monitoring and inputs to "purple" and "red" schools. Additional traded services would enable capacity to be secured through consultancy.
- A lower staffing resource (Table 2) would fundamentally threaten the viability of a core school improvement offer, as well as the virtual school, NQT support and links with SEN.

Annex 2: Education Welfare

The LA may prosecute parents for a child's non-attendance and must:

- Identify Children & Young People (CYP) not receiving education and in such cases issue school attendance orders or supervision orders preceded by a formal notice
- Publish and administer its Penalty Notice regime
- Improve attendance where schools report issues
- Investigate the whereabouts of pupils likely to be removed from school registers
- Comply with pupil registration regulations
- Administer and enforce requirements for CYP employment and performances

Local authorities have a duty to safeguard children who take part in performances by ensuring adequate protections are in place, for example, regulating the hours of performance and breaks, the provision of a chaperone to protect the child's welfare and the provision of education when children are missing school. This legislation is currently being reviewed to see how it can be updated, streamlined and made more proportionate to risk.

Comment

- Whilst there are duties as set out above, a “Table 1” resource would provide skeleton support for targeted casework. Schools were surveyed in early 2016 with positive returns in terms of interest in trading with the LA for these functions. Income generating activity has been undertaken with academies but current (and proposed) staffing makes this difficult to sustain. There is no experience currently of procuring freelance EWOs to allow a “zero hours” type flexibility to address uncertain income.
- The 1.6 level of staffing would remove capacity for field work, leaving a sub-minimal virtual monitoring operation across the LA.

Annex 3: Special Educational Needs & Disabilities

The LA is required to publish arrangements for SEND along with other matters as outlined in the Local Offer. It must:

- Ensure a sufficiency of provision for pupils with SEND and review it annually
- Make arrangements for the statutory assessment of pupils, where agreed, and maintain and review statements of SEN, Education Health & Care Plans and Transition Plans
- Secure placements consistent with statements/plans
- Monitor the progress of children with SEND through annual reviews
- Publish information on SEND funding and provision
- Provide information, support, advice and guidance to parents of children with SEND including the provision of a statutory Parent Partnership Service and Mediation Service

Comment

- There is no indication that any SEND duties would be removed from the LA. Current operational pressures suggest no scope for significant reductions if the risks of non-compliance with the new SEND Code of Practice and negative inspection experiences are to be avoided. Part of the role is an important gate-keeping function relating to DSG costs. Overall this is a function involving high-profile contacts with vulnerable families, with significant need to focus on SEN Tribunal cases with major revenue budget implications.

Annex 5: Early Years

There is a general duty to improve the well-being of children under five and reduce inequalities. It places a requirement on local authorities to improve the outcomes of all children under 5 and close the gaps between groups with the poorest outcomes and the rest by ensuring early years services are accessible to all families.

Early Years Foundation Stage assessment places a duty on local authorities to make provision to ensure that early years foundation profile assessments made by providers in their areas are accurate and consistent, and have regard to any guidance given by the Department for Education.

The LA has a statutory duty to

- Secure sufficient childcare to enable parents to take up or remain in work and training
- Secure free early years education for all eligible young children in their area
- Undertake an assessment of the sufficiency of childcare places in its area at least every 3 years, with an annual update, and publish the assessments in the prescribed manner.

It would be possible to operate a lower level of Early Years support, consistent with table 1 above, with consequently greater risk of failure.

The team's impact is positive, with only two (3%) of WBC settings having an Ofsted rating less than good. The school improvement prevention principle applies here. Where settings fail inspections there may be an impact on the sufficiency duty..

Annex 6: Admissions

The School Admissions Code requires Local Authorities to operate a system which allows residents to make a single application for a school place and to then receive a single offer. Local residents apply to WBC who then deal with all aspects of the application for community and controlled schools (and those Aided schools / Academies purchasing the Admissions Service). Processing includes measuring the distance from home to school, assigning the relevant oversubscription criteria, and gathering any additional information required. Places are then offered on the primary and secondary national offer days with waiting lists held. LAs also deal with all in-year applications for school places.

There are requirements for an annual report to the Schools Adjudicator, policy consultation and review, responding to a relatively high volume of FOI requests, and occasional LGO complaints.

Comment

Admissions is DSG funded; there is no proposal relating to the admissions team. A reduction in LAs' admissions functions looks very unlikely, in the absence of any alternative organisation to deliver them. The long planning lead time means that the LA as admissions authority is already committed to the delivery of published policies into 2017-18. Current operational pressures including transfer of functions to customer services suggest no scope for immediate savings. Development of IT-based processes might produce saving in the longer term.

Annex 7: Exclusions

Duties include: receiving information from schools on exclusions (permanent and fixed term); passing this information to the Secretary of State for Education when prescribed and establishing review panels.

There is a statutory duty for the local authority to secure full time education from the sixth day of exclusion for permanently excluded pupils and for pupils who are excluded from a pupil referral unit for a fixed period of more than 5 days. To make arrangements for the provision of suitable education at school or otherwise for each child of compulsory school age who, for reasons of illness, exclusion or otherwise, would not receive it unless such arrangements were made. Local authorities may establish pupil referral units to discharge their duty but do not have a duty to do so.

This ensures that children who cannot (for whatever reason) be in mainstream education, continue to receive full time education unless it is not in the child's best interests. These measures were introduced to make exclusions a more effective sanction and to reduce the disruption to a child's education caused by exclusion.

The costs and resources of Exclusions are embedded within Educational Welfare Services.

It was suggested in the 2016 White Paper that the responsibility for on-going education of excluded pupils would rest with the excluding school; that is not currently the case. Co-ordination, appeal and tracking responsibilities remain, consistent with the LA's role as the advocate of vulnerable children. These are currently delivered by EWS (above). PRU provision is funded from DSG.

Annex 8: Fair Access

The February 2007 Admissions Code placed a duty on each local authority to develop a Fair Access protocol. The latest revision of the Code, in force from December 2014, restates the principles and scope of the protocol, which is essentially about securing places for pupils out of school where routine processes have failed to address the needs of particular cases. This involves a regular casework Fair Access Panel meeting chaired and administered by the LA. All admission authorities (LA, voluntary aided schools, academies) must participate in the Fair Access Protocol. The LA must report on admissions under the Protocol in its annual report to the Schools Adjudicator.

Failure to operate FAP would incur risks and costs around unplaced pupils.

The costs and resources of Fair Access are embedded within Virtual School.

FAP is chaired by the virtual school headteacher. There is no scope for saving as this function already represents an additional call on the VHT time.

Annex 9: Virtual School

The Children and Families Act 2014 requires councils in England to appoint a Virtual School Head to discharge the local authority's duty to promote the educational achievement of its looked after children. The Virtual School Head is the lead responsible officer for ensuring that arrangements are in place to improve the educational experiences and outcomes of the authority's looked after children, including those placed outside the authority's boundaries.

The Ofsted inspection framework for local authority services to looked after children has very clear expectations of the information that will be available to inspectors, with implications for both the work of the Virtual School Head and the organisation of the Virtual School.

WBC arrangements include a full time virtual headteacher post, and rely on inputs from School Improvement and Early Years, each of which would be threatened under proposals to reduce staffing in those teams.

Virtual School currently benefits from School Improvement support, which is built into the proposal in this paper (section 11 above). The suggested structure sees the virtual school as a basis for the wider pupil champion function of the LA.

There is no scope for savings as the Virtual HT currently delivers that statutory function as well as managing EWS and FAP. Savings from School Improvement or Early Years need to take this into account.

Annex 10: General

LAs are under a duty to make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children; this equally applies where services are provided through a third party

The Chief Inspector has a power to investigate complaints about schools: The local authority has a duty, if requested to do so by the Chief Inspector, to (1) provide information relevant to an Ofsted investigation of a parental complaint about a school maintained by the local authority; (2) make arrangements for meeting for parents to be held (where the school does not have a delegated budget); (3) provide a copy of the Chief Inspector's report to parents (where the school does not have a delegated budget).

Local authorities have a statutory duty to 'assist, encourage and enable' young people aged 13-19 (and young adults with a learning difficulty and/or disability up to the age of 25) to participate in education or training.

These general duties militate for the maintenance of access to capacity to interact with schools and colleges on a professional basis.

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