

COMMISSIONING OF ALTERNATIVE EDUCATION

To: Children and Young People Committee

Meeting Date: 3rd June 2014

From: Adrian Loades, Executive Director: Children, Families and Adults Services

Electoral division(s): All

Forward Plan ref: N/a **Key decision:** No

Purpose: To set out the commissioning arrangements for the provision of alternative education services in Cambridgeshire.

Recommendations:

- a) Members are asked to support the direction of travel for the provision of alternative education in Cambridgeshire and to note the risks and opportunities that this presents
- b) Members are asked to support the development of a Quality Assurance process
- c) Members are asked to note the legal position in regard to the statutory duty for 6th day provision following permanent exclusion
- d) Members are asked to approve the continuation of negotiations between the Local Authority, Head teachers and partnerships for the transfer of the Cambridge Learning Base and the Wisbech Learning Base either to Academy status or to a statutory land transfer.

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1. BACKGROUND

- 1.1 Planning for the devolvement of funds for alternative secondary education to school led Behaviour and Attendance Improvement Partnerships (BAIPs) began in 2006 with a joint project board of Head teachers and of the Local Authority established and chaired by Adrian Loades. After a period of considerable planning, the funding transfer took place in 2009/10 with each of the five District based BAIPs taking responsibility for the commissioning of alternative provision and committing to reduce permanent exclusions. A partnership agreement was made between each of the BAIPs and the Local Authority for the continuing purchase of places in both the Pupil Referral Units (PRU) and the remaining tuition centres. This change to the commissioning process led to a significant reduction in the range and size of centrally managed alternative provision, as Heads began to reduce the demand on the system through the provision of on-site inclusion work. The numbers fell from over 650 full- and part-time places in the alternative provision service to 120 full-time places over three years.
- 1.2 Schools began to manage more behaviourally challenging young people themselves through the provision of on-site and individually tailored curriculum offers. This also included provision for those pupils with medical needs. The number of young people placed outside of mainstream school began to sharply decline as schools invested in both their own provision and that collectively commissioned within partnerships. The devolvement process also led to the separation of young people with Statements of Special Education Needs (SEN) from the alternative provision cohort which led to the creation of the multi-site Trinity School for this group of young people.
- 1.3 In 2011 the three remaining Pupil Referral Units (PRU) amalgamated to create the County School as a multi-site school with learning bases in Cambridge, March and Huntingdon. The March site has now moved to a new building in Wisbech. The County School was registered with the Department for Education as a Pupil Referral Unit with a single Ofsted identification number. This was a necessary step in order to drive up standards across the school with the aim of meeting the rising expectations established by Ofsted to improve teaching and learning in all settings. This was clearly a successful strategy with a Good Ofsted inspection grading in February 2013.
- 1.4 Members will be aware that the national education funding arrangements changed in 2012/13 with the creation of core funding blocks. The alternative education the budget is identified within the High Needs Block. New government guidance has become much more certain in regard to the quality that alternative provision should deliver and who should access it. Arrangements for the inspection of alternative education have been strengthened by Ofsted with Inspectors directed to seek out pupils who are on a school roll but who are educated off site. Schools are now required by Ofsted to keep a list of pupils receiving alternative education.

2. MAIN ISSUES

- 2.1 The vision for the devolvement process, first expressed in 2006, was that alternative provision would be fully commissioned by partnerships of Heads who would own the process. New guidance from the Department of Education resonates with this ambition and anticipates that the Local Authority will, in time, no longer be the provider of the services which are commissioned for alternative education.
- 2.2 In anticipation of the three-year partnership agreements coming to an end in March 2014, the Local Authority started a new round of discussions in the summer of 2013 with BAIPs regarding the recommissioning process. A picture of differing need across the BAIP partnerships emerged, which reflected different needs, capacity requirements and strategic direction of the BAIPs. There was variation in the curriculum offer in the school year 2013/14 which led to changes in direction for the three Learning Bases from September 2014.
- 2.3 Local school partnership arrangements became increasingly important as the BAIPs began to commission provision which was more aligned to their own needs, rather than subscribing to a uniform County offer. This was most pronounced in Huntingdonshire, where the Learning Base for the County School began to offer shared provision in year 10, whereby pupils would attend both the County School and their own school with a mixture of provision to meet their needs. The year 11 cohort remained in full-time placement. However, the view of the Local Authority is that the shared provision model has not worked to the extent that it should have done, with some pupils spending very little time at their own school. Instead, many pupils in Huntingdonshire were attending the County School and were then attending externally commissioned provision for the remainder of their time, rather than receiving education at their school as intended. One consequence of this was a reduction in the level of pastoral support available to pupils.
- 2.4 Discussions with the BAIPs have considered how the current provision might convert to Academy status either as a Free School or as an Alternative Provision Academy in line with national guidance. It has also been considered that provision may instead de-register with Ofsted to become an in-house service, possibly managed directly by one of the schools on behalf of their partnership. Advice has been sought from the Department of Education and there has been exploration of other models in other Local Authorities. In order to manage the transitional process, the BAIPs were asked to consider the establishment of transitional boards or sub groups whose role would be to manage the transition to new structural form and to define their commissioning intentions for the BAIP to then sign off. The following outlines progress in those evolving arrangements and current challenges:

Fenland

- 2.5 In Fenland, Thomas Clarkson Academy is by far the largest user of alternative provision. The development of the new build Learning Base in Wisbech and the Head's choice to move from March reflected the continuing high needs of the school. The Cromwell, Neale-Wade and Sir Harry Smith schools are consistent but low users of the provision. Discussions with Thomas Clarkson and with their Trust, Brook Weston, have considered whether the school wished to take on the management of the Learning Base directly. This could have been by establishing the Learning Base as an annexe to Thomas Clarkson and incorporating it as part of their extended estate. It was also considered that the Learning Base might become an Alternative Provision Academy with Brook Weston as the sponsoring Trust. However, despite strong and positive working relationships between the school and the Learning Base, it was decided that neither the school nor the Trust wished to directly manage the provision.
- 2.6 Brook Weston put the Local Authority in touch with the CE Academy, a multi-site Alternative Provision Academy in Northamptonshire with whom they have worked for some time. Discussions with the CE Academy have proved fruitful and further discussions involving the Department of Education have also been positive. Therefore, it is proposed that a process is initiated to seek the transfer of the Learning Base in Wisbech to become an Alternative Provision Academy with the CE Academy as the sponsor. In effect this would mean that the Learning Base becomes an additional site of the CE Academy, although as an Academy in its own right. The land and building would be transferred under a statutory transfer order as other schools have done under the process of Academy conversion. The planning process is in hand and the transfer could take place in the autumn. This could take place for the start of the school year but may not hit this deadline. However, there is no particular risk to not achieving this date given the direction of travel and plans for integrated working with the new sponsor. Financial and staffing information has been shared with the CE Academy who will formally decide in late May if they wish to proceed.
- 2.7 In terms of estate and staffing in Wisbech, the Learning Base has recently moved to a new building, funded by the Building Schools for the Future programme. There is a staff group of 15. The operating budget for the Learning Base is £618k. This is a different type of transfer from that of Secondary Schools, as the Local Authority has a choice in whether to seek a transfer of status or not. Therefore, Member agreement to the negotiations is being sought, with further Member approval required at a later stage should a transfer be formally arranged in anticipation of a change of status being recommended by Officers.

Cambridge City and South Cambridgeshire/East Cambridgeshire

- 2.8 In Cambridge City, the provision is located at the refurbished Cambridge Learning Base at Ascham Road. The City BAIP has always maintained their support of the Learning Base. South Cambridgeshire BAIP have withdrawn

from the provision for two years, buying no places at all and seeking to manage 100% of their alternative provision in house. However from the year 2013/14 onwards the South Cambridgeshire BAIP, now joined by East Cambridgeshire with the exception of the City of Ely, has purchased three places a year. The City and South Cambridgeshire BAIPs have formed a joint Transition Board to plan for the coming year with Heads from each BAIP represented. There is outline commitment to maintaining provision at the Learning Base for around 35 places.

- 2.9 The Head teachers who lead and chair the transitions board wish to see increased support for young people with emerging mental health difficulties as this is a cohort whom they find very hard to manage through on site provision. The Heads have agreed to develop a clear specification to meet the needs of the pupils whom will access the provision. Once this is completed the Heads are likely to seek to secure a sponsor or partner to run and manage the provision through an Academy Trust conversion. There are local partners whom have expressed an interest in taking this on and there are also well established sponsors such as the CE Academy in Northamptonshire who are also interested. Members are being asked to approve the negotiations going forward with Officers returning to Committee with a formal recommendation for approval at a later date. The budget value for the Cambridge Learning Base is just over £500k with a staff group of 14.
- 2.10 The plan for the coming school year in September is to run the provision with some minor amendments to the curriculum but with the current staffing intact with a view to either a mid-year transfer to a new status or for this to take place with the milestone of the start of the following school year in September 2015.

Huntingdonshire

- 2.11 In Huntingdon the Heads have now agreed that they wish to de-commission the Learning Base from September 2014. This means that the provision will close and the staff group will be disbanded through either redundancy or by being transferred to new roles. This change process is acknowledged to being run to a very tight timescale and indeed the required statutory staff consultation has already missed the point by which staff on teacher terms and conditions might be given notice for the start of the new school year. The effect of this may mean that staffing costs will accrue in the new term whilst the provision will have closed. However work with Human Resources should minimise the effects of this as far as possible. The Huntingdon Heads have seen a reduced number of pupils requiring full-time alternative provision and wish to release the fixed costs of maintaining the Learning Base at Mayfield Road to enhance and develop their own on-site provision. The Heads also wish to develop closer working with each other as a partnership, in a similar way to South Cambridgeshire BAIP.
- 2.12 The current manager at the Learning Base is a secondee from the Huntingdon Academies Secondary Partnership (HASP). The Huntingdon Heads will employ this person as a partnership co-ordinator to manage and

broker individual placements for pupils who require alternative provision using a range of providers including Nisai on-line learning, Huntingdon Regional College, Peterborough Regional College, ACE alternative provision in Peterborough and with other organisations and services. The co-ordinator will work with the current year 10 group in the summer term to develop provision for September.

- 2.13 The Local Authority will work with LGSS HR, the schools, Unions and the HASP partnership to conduct a consultation with a view to de-commissioning the Learning Base. The Local Authority is clear that the HASP partnership will be liable for the TUPE transfer of staff in appropriate circumstances and also for any redundancy costs. A new partnership agreement will be established by way of a formal protocol with HASP to set out new terms and expectations. Once the provision is closed then the Local Authority will not reopen it and indeed Government guidance suggests that only an Academy or a new Free School would be funded should this need re-emerge in the future and therefore this is a point of no return.
- 2.14 The Local Authority set out some key issues and challenges for the Huntingdonshire Head teachers to consider, including some hypothetical and difficult case scenarios for them to use to test their model and partnership processes by. This is not to stand in the way of the schools' commissioning intentions but to ensure that the Heads are fully aware of the implications of the consequences of their decisions and the expectation that they will be liable to provide 25 hours of education for all pupils. As for all of the BAIP partnerships, this will include provision for young people with high needs who move into the area, Looked After Children and those pupils who have exceptional needs or who schools find very hard to manage because of extreme behaviours.
- 2.15 In order for the new arrangements to work, not only in Huntingdonshire but across the system, there need to be improvements in the arrangements for quality assurance. A new quality assurance policy has been put into place but it is recognised that capacity need to be increased to make this work as well as to take account of the new arrangements being proposed. As the Local Authority begins to rapidly divest itself of the role of the provider of alternative provision it can free capacity to invest in the Quality Assurance functions. This will take the form of a transfer of role for the current Executive Head of the County School to that of Quality Assurance Lead for alternative provision. The Quality Assurance policy will be rewritten to reflect the changes in provision and the higher expectations of accountability being placed upon the schools and BAIPs.
- 2.16 It is not only one person who will be responsible for quality assurance. All staff working with pupils in schools will be encouraged to escalate concerns to the Quality Assurance Lead if it appears that the number of hours or the quality of the provision is not meeting needs. The newly commissioned Education Inclusion Officers (previously the In School Support Team) based in Locality Teams will work closely with the Quality Assurance Lead to monitor schools. As mentioned already, Ofsted guidance pays much closer attention

to the provision made by schools for those on their roll who receive 20% or more variation to the mainstream curriculum offer. The Local Authority can therefore pull on a variety of levers to ensure that schools are as inclusive as possible and are not creating internal exclusion within their establishments. Clearly this will be a matter of concern to Members. It is proposed that a report on the quality assurance process is brought to the Children and Young People Committee early in the schools year 2014/15 and then again after a full school year of the new model of delivery.

- 2.17 The Local Authority retains a statutory responsibility to provide alternative provision to pupils who are permanently excluded from school from the 6th day of their exclusion. Given the devolved model of funding in Cambridgeshire, it has been agreed that the schools take on this responsibility themselves as the funding for this provision has been devolved to them. This has tended to work reasonably well but it has sometimes caused confusion for parents and indeed for new Heads when they have started working in Cambridgeshire. It is intended to create a much stronger and clearer agreement with schools so that this position is well known and understood as a condition of the devolved funding agreement. This is of particular relevance to the plans being made by the Huntingdon Heads and legal advice on this point has been sought in order to make a binding agreement with the Heads. The legal advice confirms that the Local Authority cannot divest itself of the statutory duty but that it can make arrangements with the Schools and BAIPs to accept this as a devolved responsibility. Therefore an element of risk remains but expectations and intention are clear.
- 2.18 The funding for alternative provision comes from the High Needs Block. Given rising needs, there remains considerable pressure on this funding. The budget for alternative provision available for devolvement has not risen in line with inflation but it has not been reduced.
- 2.19 Given the changes to the national funding arrangements there is a split in how alternative provision is funded. There is £8,000 allocated to each alternative provision place with the remainder of the cost being paid by the commissioner, often the Local Authority nationally, but in this case the Heads working in partnerships. This is in the region of £7,500 to make up the cost of the provision. In this year the Local Authority has taken the £8,000 per place funding at source before devolvement, the reason being that once provision converts to an Academy, the per pupil place funding is taken out of the High Needs Block by the Education Funding Agency and given directly to the Academy. Therefore the current arrangements in Cambridgeshire are working to a similar methodology to that which will be in place once provision changes.
- 2.20 There will be a change to how the funding is devolved if there are fewer places available. At the moment £8,000 for each of the 120 places is taken at source and added to the budget of the County School. If the County end up with 65 places, 30 in Wisbech and 35 in Cambridge, then the available funding for devolvement to school partnerships will increase slightly as the money taken before the budget is devolved is less.

- 2.21 Should the plans for the learning bases in Cambridge and Wisbech not progress to conversion to Academy status, then it is possible that an alternative legal form may be proposed by the Heads, such as a limited company or a service which is run and managed by schools. This could be different from registered provision as far as Ofsted is concerned. This would only be possible if fewer than five full-time places were offered, or it could take place if a site were incorporated into another school's estate. Should this be the case, then it is possible that the Local Authority might seek to invite Members to consider a statutory land transfer. As the value of the estate concerned would be in excess of £500,000 this would be a key decision. This is a possibility although it does not appear to be a favoured option at this stage. If matters progress in this direction then the Committee would be asked formally for approval. This would apply to either a statutory land transfer or an academy conversion.

3. ALIGNMENT WITH CORPORATE PRIORITIES

3.1 Developing the local economy for the benefit of all

There are no significant implications for this priority.

3.2 Helping people live healthy and independent lives

There are no significant implications for this priority.

3.3 Supporting and protecting vulnerable people

The following bullet points set out details of implications identified by officers:

- The Local Authority retains a statutory responsibility for the provision of alternative education for secondary pupils who are permanently excluded from school. However, by devolving the funding for alternative education to schools the Heads have agreed that their partnerships will deliver this service and will sign a partnership agreement to this effect.
- Schools are responsible for educating all pupils, including those who are at risk of exclusion or those with high needs. Schools have been funded to make adequate provision and will be monitored through a quality assurance process to ensure that they are achieving this and that they are not internally excluding or buy poor quality provision.
- Whilst the Local Authority has a role in supporting vulnerable pupils through general support the quality, nature and extent of educational provision is a school responsibility. In the end the judgment of Ofsted may be brought to bear if a school is seen as not making adequate provision or using the devolved funding for the intended purpose.

4. SIGNIFICANT IMPLICATIONS

4.1 Resource Implications

The report above sets out details of significant implications in paragraphs 2.18 and 2.19.

4.2 Statutory, Risk and Legal Implications

The report above sets out details of significant implications in paragraphs 2.12 to 2.16.

4.3 Equality and Diversity Implications

The following bullet points set out details of implications identified by officers:

- Schools are required to offer places for all young people
- The BAIP partnerships are clear that they will be responsible for all needs of all young people in their catchment, including young people with high needs who move into their area.

4.4 Engagement and Consultation Implications

The following bullet point sets out details of implications identified by officers:

- A statutory consultation with staff and unions will take place as per usual Local Authority processes during a re-organisation.

4.5 Localism and Local Member Involvement

There are no significant implications for this priority.

4.6 Public Health Implications

There are no significant implications for this priority.

Source Documents	Location
None	