

## **CHILDREN AN YOUNG PEOPLE OVERVIEW AND SCRUTINY COMMITTEE**

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### **ALTERNATIVE PROVISION: PROGRESS SINCE THE REVIEW IN 2018**

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#### Summary

This report sets out the key issues relating to alternative provision since the review, which took place in 2017/18 and was published in June 2018 – almost three years ago.

#### 1. Budget and policy framework

- 1.1. The progress made in relation to Alternative Provision, often referred to as Pupil Referral Units (PRUs), across Medway are consistent with the provisions of the School Place Planning Strategy 2018-22, and the Council Plan priority ‘Supporting Medway’s people to realise their potential’ and its priority, ‘all children achieving their potential in schools’.

#### 2. Background

- 2.1. As reported to this Committee in January 2020, an exercise, The Alternative Provision (AP) Review, was undertaken during 2018 led by an independent professional and involved a steering group of Local Authority officers and headteachers, the purpose of the review was:
  - to assess how the Local Authority (LA) can support schools to retain more children and young people within mainstream schools who have additional needs or behavioural difficulties who are at risk of exclusion or placement breakdown; and
  - to make recommendations around trialling new ways of supporting children and young people in mainstream schools.

2.2. The key issues were:

2.2.1. capacity issues in AP, such that, in 2016-2017, the LA was forced to place more than half of all permanently excluded children in independent AP.

There are three reasons for the capacity issue:

- 1) the number of commissioned AP places is low in comparison to most LAs;
- 2) exclusion rates were very high; and
- 3) there was very little reintegration from AP;

2.2.2. structural issues within the local authority, most notably an absence of a clear lead person for exclusion and AP and disjointed lines of reporting among senior officers;

2.2.3. preventative outreach work all came from SEND schools and is not meeting demand; and

2.2.4. The only AP for the primary sector was small, serves a local region and is restricted to key stage one.

2.2.5. The report addresses the above issues in order, focusing especially on the last, which is the main AP area requiring development, as there is still no area-wide primary behaviour support commissioned places or outreach in place.

### 3. Work to address the key issues in AP since 2018 report

3.1. With regard to capacity, since the review the local authority has reduced the funded places of both The Rowans and Will Adams. This is because the full-time equivalent (FTE) pupils at both providers were below the FTE funded places.

3.2. Will Adams is funded for both the current (2020/21) and next (2021/22) school year for 45 places, a reduction of five compared with 2019/20. This is because the centre has never reached even 45 pupils on an FTE basis. The occupancy in the autumn term was 26 pupils, with in-year referrals averaging about 13. Each place costs the LA £22,614 (£10,000 base funding and £12,614 top up funding).

3.3. The LA has agreed to maintain funding at 45 places on the understanding that Will Adams will start offering outreach support to secondary schools, at both key stages three and four.

3.4. The funded places at the Rowans remain at 65 for both the current and next academic year. Currently, there are 55 pupils at the Rowans (in key stages three and four). While it is true that this leaves 10 vacant places, LA officers are content to fund these as a) the LA pays only 'base' (£10,000) for unfilled places, and not the top-up (£14,929) and b) it offers spare capacity if required.

Top up funding for the Rowans is based on actual pupil numbers and not commissioned numbers.

- 3.5. It should be noted that the issue of 'scarce capacity' is only partly true. The LA has only five independent providers. For one, the LA has agreed a contract for 15 AP places until 2023. Of the others, only one independent provider is currently used, with four AP places being funded. So there are 120 places commissioned presently through three providers (two state-funded, and one independent, which means that only four places (3 per cent) are 'spot-purchased'.

<b>Other providers</b>	<b>Cost per pupil</b>
<b>Provider a</b>	£14,000
<b>Provider b</b>	£13,500
<b>Provider c</b>	£18,233
<b>Provider d</b>	£15,500
<b>Provider e</b>	£14,000

- 3.6. The review proposed the LA should increase the number of its commissioned places to 120. The mean cost of an independent place is just about £15,500, compared with just under £24,000 for Medway's PRU and AP. To provide 120 secondary AP places in the state-funded APs would cost about £357,000 gross, over £132,000 more than the cost of the independent places. The quality of provision in the two Medway providers is very good, but there is no indication that more secondary-stage provision is needed.
- 3.7. Moreover, creating more places will not necessarily reduce the use of independent providers, since the parents of pupils already there might not want them to move, and some parents will want an independent provider anyway. In summary, recommendation 9 of the AP report, which proposed the increase a) cannot be afforded (the high needs block (HNB) of the dedicated schools grant (DSG) is currently £14.2m overspent; b) would almost certainly not be used; and c) would not necessarily decrease the use of independent places. Finally, it should be noted that officers have commissioned work to quality assure the provision within independent settings as an area of priority.
- 3.8. With regard to the 'number of commissioned places being low': it is clear that, contrary to the report, there is surplus capacity for secondary places. A much higher percentage of places than currently is the case would need to be filled before any increase in locally commissioned places is considered.
- 3.9. In any case, one of the issues raised in the report – 'the very high exclusion rates' – has been addressed, by primary but especially secondary schools. At the time of the report, the last available figures – for 2015/16 – showed a permanent exclusion rate in secondary schools of 0.42 compared with 0.17 in

England (two and a half times more). This was '(up) by 133 per cent in the three years following 2012/13, compared to a 40 per cent growth nationally'. Work is on-going to sustain and further develop improvements in the reduction of exclusion and to ensure that practice in issuing exclusions is consistent across all schools.

- 3.10. In the last year comparisons are available – the 2018/19 school year – secondary permanent exclusions were exactly on the national average (0.2 per cent). Primary school permanent exclusions were, likewise, exactly on the national average – 0.02 per cent. The table below shows the number and percentage of permanent exclusions by sector. While 2019/20 was a unique year to date, with schools only open for very few pupils for almost half the school year, permanent exclusion rates were very low.

**2019/20 exclusion numbers and rates**

These are local unpublished data - rates are based on the January 2020 pupil census:

	No of FTEs	FTE Rate	No of PEs	PE Rate
Primary	204	0.78	0	0.00
Secondary	1,186	5.99	28	0.14

- 3.11. With regard to 'structural issues in the LA': in April 2020, the education service restructuring was completed. For the first time, there is clear line management responsibility for AP commissioning, the management of the fair access panel and reintegration of pupils on the roll of the Rowans or Will Adams. An Inclusions Manager reports directly to the Head of School Effectiveness, who in turn reports to the Assistant Director, Education and SEND.
- 3.12. With regard to outreach and reintegration support, Will Adams PRU offers to share the expertise within the staffing with local secondary schools through a variety of support packages that fall broadly within the following areas:
- 3.12.1. One to one student support: staff from Will Adams observe a student in their own school setting and provide feedback to head of year/teaching staff. Mentoring for a student will be made available after discussions with staff/parent/student. A report will be submitted to the head of year offering feedback on observations and strategies moving forward at the end of the programme. It is anticipated that student's behaviour in class will improve and fixed term exclusions will reduce.
- 3.12.2. Paired teaching/peer support: an opportunity for mainstream teaching staff to work with their peers at Will Adams and vice versa. Mainstream school staff would be expected to disseminate what they have learnt to their department. This focused piece of work would provide approximately 2 hours each week of training / staff development for a 6-week duration.

- 3.12.3. Small group work: Small group of identified students who have difficulty accessing lessons for a variety of reasons to be mentored by a member of Will Adams staff. The aim of the sessions is for students to identify key triggers in their behaviour and how to manage this behaviour through taught strategies. It is expected that this module will improve positive feedback from staff to the student. Will Adams staff will revisit students on a termly basis within their mainstream setting.
- 3.12.4. School Support Group: a member of Will Adams senior leadership team will attend the school support group that is convened by the local authority inclusion team. This meeting brings together multi agencies to discuss the needs of a child/student vulnerable to exclusion from their primary or secondary provision. Will Adams will offer support to mainstream schools through this meeting, that may include an assessment visit and advice to staff in a mainstream provision regarding alternative strategies to those already implemented. The member of staff from Will Adams staff will be dependent on students' needs and may include; SENCO, pastoral or teaching and learning lead. The support may include lesson or free time observations, work scrutiny and EHCP support. The aim is to provide further strategies to enable the student to remain in school.
- 3.13. The key gap in provision is in off-site and outreach behaviour support available for primary schools. Accordingly, officers' focus has been on undertaking the action required to provide this.
- 3.14. There has been an intention to provide a primary-focused behaviour support centre since 2016. Following the 2018 review of AP, the bid was adapted. The proposal for a 50-place provision, a free school, the building for which is to be funded by the government, is now at the final stage of approval by the Department for Education (DfE).
- 3.15. The free school, which will be an 'alternative provision' setting called The Beeches, will be managed by The Rowans (of The Inspiring Change Multi-Academy Trust). Pupils attending the Beeches, or provided with outreach support in their school, will not usually have an education, health and care (EHC) plan.
- 3.16. Place funding for the 50 places available at the Beeches from its planned opening date of September 2023 will be charged to the HNB from September 2025 (the places will be funded by the Education and Skills Funding Agency (ESFA) for the first two years). Under the funding formula for the AP academy, there is 'top-up' funding for each pupil attending. This must also be factored into revenue costs.
- 3.17. Given the overspend in the HNB, which will (unless increased funding is provided by the government) continue until 2027/28, there is the need to show how the revenue funding can be contained so that the recovery plan is not adversely affected. Local authority officers have agreed in principle – confirmed in writing – that the top-up:

- 3.17.1. is for pupils not per place, and is per FTE pupil (so for example a pupil attending for 19 days would be paid 10 per cent of the top-up, as the school year has 190 days);
- 3.17.2. should be set each year at the age weighted pupil unit (AWU) for primary and secondary age pupils (£3,123 and £4,404 respectively) used in the funding formula; and
- 3.17.3. the school referring the pupil should pay the top-up amount pro-rata, except for exclusions, where the LA is responsible for paying (but recoups the AWPU pro-rata until the end of the financial year in which the exclusion takes place).
- 3.18. A key element of The Beeches offer will be outreach, through which support in managing the needs of pupils with significant behavioural needs is provided to teachers, and to individual pupils with significant needs. The support for pupils can be through her or his school making a referral through the school support group, or through The Beeches supporting a pupil's reintegration after a period at the AP.
- 3.19. Accordingly, the Council's statutory Director for Children's Services has followed up his letter to the Department for Education (DfE)'s free schools capital project manager (dated 15 October 2018) with a letter confirming that the LA will commission 50 FTE places at the Beeches, for a five year period following the school's opening (which is likely to be on or after September 2023).
- 3.20. There remains the issue of high-quality behaviour support between now and September 2023 (or after this if there are further delays in opening The Beeches). In order to meet this need, officers have set up a working group and are examining possible site and provider options for primary behaviour support, to be trialled in the summer term and fully operational, after feedback from head teachers, parents and pupils following the summer term trial period.

#### 4. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Ineffective provision	Free school does not reduce the future level of additional need through early intervention	Monitoring of the provision and post-intervention effect by officers	C x 2
Cost of provision	Provider attempts to increase top-up costs	Clear contract specifying top-up rate and inflation	C x 1

## 5. Financial implications

- 5.1. The financial implications are set out within the report.
- 5.2. Both independent and state funded alternative provision education is paid for from within the high needs block budget of the DSG. The High Needs DSG Budget remains under significant financial pressure when a further £4.9m overspend is expected to be added at the end of the 2020-21 financial year increase the cumulative DSG deficit overspend to £14.2m. A robust High Needs Budget Recovery Plan is in place.
- 5.3. Like special schools, state funded PRUs controlled by a local authority or the ESFA are funded on the commissioned places and top up method. Each year, Medway must commission the number of places at each of the two schools at £10,000 per place. This is more commonly known as the base funding. Thereafter, a top up element for every child placed into the school is paid but the funding bands for each school are different. Independent providers are free to set their own day or weekly charge rates.

## 6. Legal implications

- 6.1. Almost all Local Authorities are required to establish PRUs to cater for the needs of some of the children and young people in their area who are unable to attend mainstream or special schools for whatever reason.
- 6.2. In addition the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 have the effect of conferring other powers and duties directly on local authorities.
- 6.3. Local authorities have joint statutory responsibility in the exercise of some functions, e.g., in deciding the curriculum to offer and in deciding the times of school sessions. In relation to exclusion, for example, they have similar roles to school governing bodies in terms of confirming/rejecting these exclusions.

## 7. Recommendations

- 7.1. The Committee are asked to note the report.

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### Appendices

None.

Background papers

None.