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DERBYSHIRE COUNTY COUNCIL

CABINET

26th March 2013

**Report of the Strategic Director for
Children & Younger Adults**

Alternative Provision Funding Formulae 2013-14 – (Education)

1. **Purpose of the Report**

To seek Cabinet approval for the basis of determining Alternative Provision funding arrangements for 2013-14.

2. **Information & Analysis**

2.1 **National Changes**

Following the changes to the national funding framework relating to schools, the funding arrangements in respect of alternative provision will also change from April 2013.

In January 2013 the DfE published guidance on local authorities' statutory duties and powers in respect of alternative provision. For clarity, the guidance defines alternative provision as follows: "education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a fixed period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour."

Local authorities are responsible for arranging suitable education for permanently excluded pupils, and for other pupils who – because of illness or other reasons – would not receive suitable education without such arrangements being made. This applies to all children of compulsory school age resident in the local authority area, whether or not they are on the roll of a school, and whatever type of school they attend. Full-time education for excluded pupils must begin no later than the sixth day of the exclusion. The Secretary of State has the power to make statutory guidance about these duties, and local authorities must have regard to it.

While there is no statutory requirement as to when suitable full-time education should begin for pupils placed in alternative provision for reasons other than exclusion, local authorities should ensure that such pupils are placed as quickly as possible. Any school that is established and maintained by a local authority to enable it to discharge the above duty is known as a pupil referral unit. There is no requirement on local authorities to have or to establish a pupil referral unit, and they may discharge their duties by other means.

Where a local authority maintains one or more pupil referral units, at least one schools' member on the Schools Forum must be a representative of a pupil referral unit. Cabinet has already agreed to change the Schools Forum's Constitution to allow for this requirement.

Regulations require local authorities to establish management committees to run pupil referral units in their area, to make provision for the constitution (including composition) and procedures of management committees, and to delegate specific powers to management committees. The management committee must have a strategic role setting out and monitoring the aims and objectives of the unit to ensure children are safe, have their needs met and receive a good standard of education.

Section 45 of the School Standards and Framework Act 1998, as amended by section 50 of the Education Act 2011, requires local authorities to delegate budgets to the management committee of the pupil referral unit from 1 April 2013.

The School and Early Years Finance (England) Regulations 2012 prescribe how PRUs' budget shares are to be calculated and what funds for high needs pupils can be retained centrally by a local authority. All direct state-funded alternative provision institutions (including pupil referral units) will receive base funding of £8,000 per place, topped up by funding from the commissioning local authority or school for each pupil admitted. The amount of the top up for each child will be for local decision and should be based on services provided to meet the needs of the individual child and any additional overheads not covered by the base funding.

Also from April 2013, responsibility for all decisions about the recruitment and management of staff will sit with the management committee, rather than the local authority. As with community schools the local authority will remain the employer of staff in pupil referral units and will continue to be responsible for agreeing pay and conditions. The management committee will, however, have responsibility for making decisions about appointing, managing, appraising, suspending or dismissing members of staff. In carrying out the duties with regard to this, management committees must adhere to the relevant sections of the School Staffing Regulations.

Governing bodies of schools are responsible for arranging suitable full-time education from the sixth day of a fixed period exclusion. Schools may also direct pupils off-site for education, to help improve their behaviour. While 'full-time' is not defined in law, pupils in alternative provision should receive the same amount of education as they would receive in a maintained school. Full-time can be made up of two or more part-time provisions.

2.2 Position in Derbyshire

Derbyshire currently has four PRUs across the county:

Amber Valley (1102) – 92 fte places covered across 3 sites at Kirk Hallam, Sawley and Breadsall covering Key Stages 2, 3 and 4.

South Derbyshire (1106) – 16 fte places at two sites, Swadlincote and Newhall, covering Key Stages 2, 3 and developing KS4 from September 2013.

North Derbyshire (1111) – 113 places at five sites, Chapel, Buxton, Barrow Hill, Hasland and Bolsover covering Key Stages 2, 3 and 4.

Derbyshire Support Centre for Alternative Provision (DSCAP) (1113) – 90 fte places with pupils accessing their education with commissioned alternative providers such as colleges or training providers.

The Support Centres provide statutory education for children and young people who are permanently excluded and work in close partnership with our mainstream schools to support the education of children and young people at risk of permanent exclusion.

It is proposed that, in order to comply with the new national framework, governance of the PRUs' budgets and associated responsibilities from April 2013 should be delegated to the two existing management committees. Appendix 1 shows the structure of the management committee that is required under the new regulations and the current/proposed memberships for Derbyshire. Work to comply with the new structures by September 2013 is already underway. Appendix 2 sets out the current roles and responsibilities of the management committees. These responsibilities will develop further from April 2013 in line with new statutory guidance.

Under the new arrangements each PRU registered with the DfE will have a delegated resource. The budget will be determined initially by the number of places multiplied by the national funding rate of £8,000 per place. These place led allocations will be set at the start of the year and are fixed.

In addition, each PRU will receive top up funding from the High Need Block of the Dedicated Schools Grant based on the number of pupils on roll each month. Authorities have significant discretion to determine the level of top up per pupil which recognises the wide variety of needs, and thus costs, of delivering provision to students in a variety of different settings. The modelling to date, based on the 2012-13 forecast expenditure, indicates that top ups per full time equivalent student would range from £3,728 to £17,438 per student as set out in the table below. For 2013-14 these top ups will apply to all provision so, assuming that the level of activity at each PRU in 2013-14 remains consistent with 2012-13, then similar levels of funding will be received by each PRU.

PRU Setting	Indicative Top-Up
Amber Valley	£6,241
South Derbyshire	£17,438
North Derbyshire	£5,175
Derbyshire Support Centre	£3,728

These arrangements will protect the status quo for 2013-14 for both PRUs and schools. PRUs will receive the funding as described above, schools will not make any payments for the PRU provision but will lose a pro rata share of the AWPU funding and Pupil

Premium Grant, as now, in relation to permanent exclusions. The DfE's longer term expectation is that some of the PRU top up funding should be delegated to mainstream schools to provide them with the resource to support their enhanced role as commissioner of services in respect of temporary exclusions. The DfE January guidance will be reviewed in September 2013 and it is likely that a revised framework will come in from April 2014, potentially with increased delegation of funding to mainstream schools.

3. Other Considerations

In preparing this report the relevance of the following factors has been considered: - prevention of crime & disorder, equality of opportunity; and environmental, financial, health, human resources, legal & human rights, property and transport considerations.

4. Background Papers

DfE Guidance: Alternative Provision – Statutory Guidance for local authorities.
DfE publication – School Funding Reform: Next steps towards a fairer system.
Relevant papers held in CAYA Finance.

5. Strategic Director's Recommendations

That Cabinet:

- (i) Notes the report;
- (ii) Approves the funding methodology as set out in section 2;
- (iii) Delegates responsibility for the management of PRU budgets, staffing and associated responsibilities to the existing management committees from April 2013 in accordance with the School and Early Years Finance (England) Regulations 2012;
- (iv) Agrees to the revised management committee structures as set out in Appendix 1; and
- (v) Notes the potential for further changes in funding arrangements relating to Alternative Provision from April 2014.

IAN THOMAS
Strategic Director for Children & Younger Adults

Appendix 1

Structure of the Management Committees required under the new regulations.

Parent members	At least one, but no more than one-fifth of the total committee.
Staff members	At least one, but no more than one-third of the total committee.
Local Authority appointed members	At least one, but no more than one-third of the total committee.
Community members	Must outnumber all of the other members combined.
Sponsor members	Sponsor members are entirely optional but where a committee has sponsor members there must be at least one, but no more than two.

Committees must contain at least 7, but no more than 20 members.

Derbyshire - current/proposed Management Committee structures.

North Management Committee (5 sites in North Derbyshire)	Current	Proposed
Parent members	1	1
Staff members	1	1
Local Authority appointed members	1	1
Community members	5	4
South Management Committee (6 sites in Amber Valley, South Derbyshire and Derbyshire Support Centre Alternative Provision)		
Parent members	1	1
Staff members	1	1
Local Authority appointed members	1	1
Community members	2	4

Committees are quorate under the current constitution.

Appendix 2.

CURRENT ROLES AND RESPONSIBILITIES OF MANAGEMENT COMMITTEES

Decisions made by the management committee:

- To monitor monthly expenditure
- To implement a curriculum policy (responsible for standards of teaching; decide which subjects options should be taught & responsible for individual child's education) *
- To establish a discipline policy
- To review the use of exclusion
- To direct reinstatement of excluded pupils
- To ensure that health and safety regulations are followed**
- To set the times of school sessions and the dates of school terms and holidays
- To ensure the school meets for agreed number of session in a school year
- To appoint (and remove) the chair and vice-chair
- To ensure that at least three management committee meetings are held in a school year
- To consider whether or not to exercise delegation of functions to individuals or committee
- To regulate the management committee procedures
- To promote the well-being of pupils and community cohesion.

*The Local Authority, Management Committee and Head of Centre are able to work jointly in agreeing the curriculum policy and should therefore set out in the policy, procedures for implementation including the tasks in brackets.

** Also a responsibility of the Head of Centre.

Decisions made by the management committee where advice from the Local Authority is strongly recommended:

- Agree a pay policy
- Pay discretions
- Establish disciplinary/capability procedures
- To deliver the performance management
- To appoint and dismiss the clerk
- To appoint and remove community or sponsor members
- To set up a Register of Governor's Business Interests
- To decide to offer additional activities and what form these should take.

Regulations allow for management committees to provide additional services which meet the needs of the community if they wish to do so, although the Committee will need the consent of the Local Authority before doing so:

- To put in place the additional services provided
- To ensure delivery of services provide

- To cease providing extended school provision

Recommendations:

- The Management Committee review the curriculum policies annually.
- Heads of Centres report annually on the standards of teaching. This is verified through the SIRR process and moderated through joint observations with either the Head of Provision or School Improvement Partner.
- Heads of Centres submit a discipline policy to the management committee and that committee determine how often this should be reviewed.
- Heads of Centres include in each report to the Committee the numbers of pupils permanently excluded, and those excluded for fixed periods of more than 15 days in total in a term.
- The Management Committee to determine a process where if a pupil would lose an opportunity to sit an examination whilst excluded, the Committee are notified and must decide whether or not to lift the exclusion.
- School term dates are determined by the Local Authority but proposed Inset dates should be submitted by the Head of Provision to the Management Committee for ratification.
- Staff within our Support Centres are employed by the Local Authority and pay is therefore in line with Teachers Pay and Conditions or Local Authority scales (e.g. single status) and Local Authority disciplinary/capability procedures would apply to all staff.
- Heads of Centre confirm annually performance management cycle for all staff and outcomes.
- A Register of Governor's Business Interests be submitted for the next meeting.