



# **Internal Audit Report**

## **Children & Family Services**

### **Maplewell Hall School - Residential Provision**

**4 January 2018**

<b>KEY PERSONNEL</b>	
██████████	██████████
██████████	██████████
██████████	██████████

**INTERNAL AUDIT REPORT****CHILDREN & FAMILY SERVICES****MAPLEWELL HALL SCHOOL – RESIDENTIAL PROVISION****1. Background**

- 1.1 This internal audit engagement was commissioned by the Director of Children & Family Services to independently analyse the costs associated with the residential provision, including after-school care, at Maplewell Hall School.
- 1.2 The Council faces significant financial pressures across all services but particularly in respect of children's services. The residential facility at Maplewell Hall is funded from the High Needs Block of the Dedicated Schools Grant (DSG). This budget overspent by £2 million in 2016/17. The £63 million budget is forecast to overspend again in 2017/18 by £1 million.
- 1.3 At its meeting on 15<sup>th</sup> September 2017 the Cabinet approved the commencement of informal / pre-consultation, as part of the statutory prescribed alterations process, on a proposal to remove (close) the residential facilities with effect from the start of the school year in September 2018.
- 1.4 At its meeting on 24<sup>th</sup> November 2017 the Cabinet gave its approval to proceed with the proposal to remove (close) the residential facilities at Maplewell Hall School with effect from September 2018 but that "it be noted that the removal of the residential provision, if progressed, is not expected to have an adverse impact on the afterschool activities provided by Maplewell Hall School and that, subject to the outcome of further audit work, officers will work with the school to ensure the continuance of the afterschool activities".
- 1.5 At its meeting on 6<sup>th</sup> December 2017 the full County Council noted the current position and in particular that the Cabinet will receive a further report on 9<sup>th</sup> March 2018 to enable a final decision to be taken on the implementation or otherwise, of the closure of the residential facilities.

**2. Terms of Reference**

- 2.1 The Terms of Reference for this engagement were to:
- Confirm the actual costs of operating the residential provision at Maplewell Hall Special School, in the context of the annual High Needs Budget (HNB) funding allocation provided by the Council
  - Clarify the division of operating costs between after-school activities and the residential overnight stays that follow this
  - Confirm that the residential funding provided by the Council has been managed by the governing body and senior leadership team in

accordance with the Leicestershire Scheme of Financing of maintained schools, and demonstrates robust procedures and financial probity

- Confirm the rationale for parental contributions towards the cost of the residential provision, and how and when the charging policy was implemented
- Understand the impact to the School's overall financial position arising from a potential removal of the residential funding
- Establish current overnight occupancy levels
- Confirm that the funds provided by the Council have been used in keeping with requirements applicable to the allocation of High Needs Block (HNB) funding

- 2.2 The School commonly refers to all of its out-of-school hours provision as "residential" as, for example, after-school care for many pupils will seamlessly lead onto an overnight stay. For the purposes of this report the following terminology has been used:

"Total Residential" – both after-school care and residential provision

"Pure Residential" – residential provision only (i.e. typically 7.30pm onwards)

"After-School Care (ASC)" – after-school care only (3.45pm-7.30pm)

### 3. Work Done

- 3.1 Visits were made to the School by internal audit staff and meetings held with the [REDACTED] the [REDACTED] and the [REDACTED] to further understand how the residential provision operates. School staff have been co-operative with internal audit work and have provided a significant amount of information and clarification where requested.
- 3.2 Further discussions / correspondence were held with the [REDACTED] that is contracted to the School and a number of staff within both Children & Family Services and the Corporate Resources Department, e.g. Payroll, Property Services, School Organisation Team, C&FS Finance Business Partner Team.
- 3.3 A review of information has been undertaken including budget plans, governors' minutes and supporting papers, registers, income records etc.

### 4. Findings

#### 4.1 To confirm the actual costs of operating the residential provision at Maplewell Hall Special School, in the context of the annual High Needs Budget (HNB) funding allocation provided by the Council

- 4.1.1 The School receives an annual allocation of £287,852 from LCC to fund residential provision. This amount is slightly less than the amount quoted in Cabinet reports (£293k).

- 4.1.2 This funding is based on a historical formula, last revised in 2013/14 when an additional sum was delegated for catering. The funding is not subject to annual increase, e.g. inflation, and has remained at 2013/14's level since.
- 4.1.3 The funding is in addition to the School's formula-based main budget allocation. We have confirmed with the [REDACTED] and the [REDACTED] that the residential top-up is not ring-fenced, i.e. there is no expectation that it is spent wholly on residential provision although nobody disputed this to be its purpose. The [REDACTED], has confirmed to us that it is a governor decision how this amount is to be spent, i.e. reiteration that it is not ring-fenced, nor is the School expected to account for how it has been spent separately to any wider obligation than to account for the whole School budget (i.e. there is no specific commissioning agreement between the local authority and the School governing how this funding is to be spent or accounted for). Under the Scheme for Financing Schools a governing body is responsible for setting and monitoring spending and is free to use the total quantum of funding for the purposes of the school subject to any restrictions set out in the Scheme for Financing Schools.
- 4.1.4 In addition, the School receives other income sources towards the costs of residential provision:
- Parental contributions, voluntary, estimated by us based on 2016-17 actuals to generate c. £8,600 p.a. These contributions are set at £8 per night and covers both after-school care (notionally £4.50 of the £8) and residential provision (notionally £3.50)
  - Utilisation of Pupil Premium Grant (PPG), effectively internal transfers made within the School budget, in respect of pupils whose parents/guardians are unable to pay. PPG income has been estimated by us based on 2016-17 actuals to be in the region of £12,500 p.a.
- 4.1.5 Education law allows schools to seek voluntary parental contributions towards the cost of extra-curricular activities although there is a requirement under the Education Act 1996 (supplemented by DfE guidance on the subject) for each school to publish its charging policy on its website.
- 4.1.6 At the time of the initial visit to the School the charging policy was not 'live' on the School's website. According to the School, the link had been deactivated pending a review of the charging policy which the School considered was out-of-date and no longer fit-for-purpose. We reviewed the School's current charging policy (2014) which is lacking with specific regard to charges for residential care although does state somewhat more generically that optional charges may be made for "an activity that takes place outside school hours".
- 4.1.7 The charging policy does not make specific reference to the costs of residential and after-school care. We did review, however, other documents provided by the School, e.g. termly letters to parents/guardians regarding residential opportunities which clearly make reference to the charge of £8 per night.

- 4.1.8 At the outset, during our first meeting with the School on 8th November 2017, the [REDACTED] made a clear statement in the presence of the [REDACTED] that took us somewhat by surprise. [REDACTED] stated categorically and in the presence of [REDACTED] that the funding provided by LCC was more than enough and that a residential provision could continue with a much lower level of subsidy. This was not disputed by [REDACTED]. The suggestion was made to us (and to [REDACTED], [REDACTED] who was present at this stage too) that they could run on “about half” of the funding provided.
- 4.1.9 Our review of the minutes of the School’s Finance Committee meetings concludes that it was at the meeting of 26th January 2017 that the potential closure of the residential facility was formally discussed in any great detail for the first time, i.e. with financial figures provided in support (although a reference to a proposed removal of this funding was made in a budget monitoring report much earlier in November 2015 at the time of preliminary discussions between the School and the LA). At this January 2017 meeting, a three-year budget was tabled which, for the first time, sought to separately identify residential costs:

<u>2017/18 budget</u>	<u>£</u>
Residential Income	287,852
Residential Expenditure – Staffing	(145,414)
Residential Expenditure – Non-Staffing	(1,000)
<b>SURPLUS</b>	<b>141,438</b>

Whilst these figures do support the assertion made by [REDACTED] that the residential provision could be run on “about half” of the funding provided, there are two further comments that we would make with regard to these projections:

- The projections are based on direct costs only, e.g. no apportionment of other expenditure has been taken into account, e.g. energy, caretaking and cleaning, premises maintenance etc. These direct costs are not split by the School between “pure” residential and after-school provision. If an estimate of indirect costs was to be included, this would have the effect of *reducing* the School’s projected surplus figure;
- The projections do not take into account parental contributions, estimated by us to be £8.6k p.a. nor do they include notional transfers from the School’s pupil premium grant (estimated £12.5k). which, had they been included, would have had the effect of *increasing* the surplus figure shown

- 4.1.10 It can be concluded from this that the governors and school management were aware of an apparent surplus of funding over expenditure back at this January 2017 date. There is no evidence to suggest that any such computations had been undertaken before January 2017.

4.1.11 In order to build up a more realistic assumption of the whole costs of total residential provision at the School we have factored in estimations of indirect costs, primarily the apportioning of shared premises costs based on total premises budgets in a number of relevant areas (e.g. energy, cleaning) and floor area figures provided by Property Services. We have also factored into these calculations estimated additional income receivable from both voluntary parental contributions and pupil premium grant transfers. The outcome of this work is further detailed at [Appendix A](#) which estimates that total costs are in the region of 64% of the LCC funding received (ignoring any contributions that the School receives from parents and PPG transfers).

4.1.12 We have discussed with the School our reasoning in seeking to update their preliminary figures (see 4.1.9 (above)) in order to take into account estimations of indirect costs too, and the School is broadly in agreement with our thought process, although nobody would deny that such apportionments can only be made on an estimated basis albeit through following a logical thought process.

4.1.13 Despite the complexities of identifying all relevant costs individually, evidence provided to governors along with some assumptions regarding further indirect costs does support the School's view that current LCC funding levels are more than sufficient to meet the costs of the residential provision.

#### **4.2 To clarify the division of operating costs between after-school activities and the residential overnight stays that follow this**

4.2.1 There is no easy way to split total residential costs between “pure” residential and after-school provision. The School does not seek to distinguish between the two nor does its accounting structure facilitate the separate identification of costs.

4.2.2 We are, therefore, of the opinion that there is limited value in trying to further sub-analyse costs based on a number of assumptions and estimates.

4.2.3 To give examples of where difficulties lie:

- It is difficult to “second guess” what an after-school only provision would look like, moving forward
- Would the model be simply wrap-around childcare, i.e. to, say, 5.30pm, or would the provision continue until 7.30pm?
- A ‘wrap-around childcare’ type provision would be cheaper to resource, staffing-wise, and may require less specialised staff
- Whether any provision would incorporate a teaching element?
- The specific, and potentially complex, needs of attendees which would make it difficult to gauge the staffing mix required (i.e. it is unlikely to be a simple ratio of pupils to staff, as with a mainstream after-school club provision)
- How many parents/guardians would be interested in the after-school club, were the residential element to be withdrawn?

- Whether the provision would be extended from the current 4 to 5 days per week?
- Whether parents/guardians would continue to contribute at the current levels?
- Whether senior management would be required to be in attendance, in rotation, and, if so, whether they would as a result still attract additional management allowances?

**4.3 To confirm that the residential funding provided by the Council has been managed by the governing body and senior leadership team in accordance with the Leicestershire Scheme of Financing of maintained schools, and demonstrates robust procedures and financial probity**

4.3.1 Under the Leicestershire Scheme for Financing Schools a governing body is responsible for setting and monitoring spending and is free to use the total quantum of funding for the purposes of the school subject to any restrictions set out in the Scheme. As the LCC funding provided was not ring-fenced, nor subject to any specific commissioning agreement, it is our opinion that the governing body has not acted illegally in how this funding has been allocated to be spent nor in any inability to specifically account for it separately.

4.3.2 Sections 449-462 of the Education Act 1996 sets out the law on charging for school activities in schools maintained by local authorities in England. Schools are required to publish their charging and remission policies on their web-sites. At the time of the audit the School had failed to publish its charging policy on-line although the School asserts that the policy had simply been taken down from the web-site pending review as it was out of date. DfE guidance states that, "If a charge is to be made for a particular type of activity, for example optional extras, parents need to know how the charge will be worked out and who might qualify for help with the cost (or even get it free)". This considered, we are of the opinion that the School's charging policy (2014) is not sufficiently detailed in that charges and remissions with specific regard to residential care (including after-school care) are not specifically represented.

4.3.3 The audit work done does give rise to two specific issues from a moral standpoint requiring further consideration, although we would emphasise in each instance there is no suggestion of the School acting contrary to Education law. These are:

- Whether, given the well-publicised pressures on the LA's High Needs budget, the School and its governors should have made earlier representations to the County Council that the funding it receives for residential provision is more than sufficient for its needs and that, in its own words, the School could run the provision on a much lesser allocation; and
- The decision by the School to seek additional contributions from parents, albeit voluntary, in respect of activities considered by the School to already be generously funded through LCC grant.

**4.4 To confirm the rationale for parental contributions towards the cost of the residential provision, and how and when the charging policy was implemented**

- 4.4.1 We have as yet been unable to confirm the rationale for the School seeking parental contributions or indeed decisions taken *how much* to request by means of voluntary contributions. The arrangement appears to go back a number of years and, according to the [REDACTED] and [REDACTED] was a decision taken by previous senior leadership. The School has been asked to search for governors' minutes in support of any decisions to charge for residential provision but, to date, nothing has been found.
- 4.4.2 The School's "Charges, Voluntary Contributions & Remissions" policy has been reviewed and is dated 21.1.2014. The review date is shown as "TBC" (to be confirmed). It does not specifically detail charges (and remissions) for residential provision – see 4.3.2 (above).
- 4.4.3 We have taken the advice of the Director of Law and Governance with regard to the legal position regarding for charging arrangements. Her advice note is provided at [Appendix B](#) (paras. 9-13 refer). Paragraph 11 of this advice note states that, "The charge must not exceed the actual cost of providing the optional extra activity divided equally by the number of pupils participating."
- 4.4.4 We have seen evidence of the policy being reviewed by the Finance Committee at its meeting of 21<sup>st</sup> January 2014 and being subsequently approved by the full governing body at its meeting of 30<sup>th</sup> January 2014.

**4.5 To understand the impact to the School's overall financial position arising from a potential removal of the residential funding**

- 4.5.1 The School budget has been in deficit since the 2014/15 financial year and due to a number of factors. Information provided to the LA and the School's Finance Committee during the current (2017/18) financial year gives assurances that the deficit is now firmly under control. The deficit figure at the end of the last (2016/17) financial year of £119,156 (revenue) was more favourable than planned (£138k). Latest projections are that the budget will be back in the black at the end of the current financial year and indeed that the predicted underspend at the end of this year is likely to be higher than predicted (planned £59k underspend but the [REDACTED] stated that [REDACTED] expected this to actually be in the region of c. £100k).
- 4.5.2 It is without doubt that any LCC funding for residential provision over and above the associated costs will have subsequently had the effect of subsidising the overall School budget and in the process will have indirectly contributed to the eradication of the historical deficit. Estimates provided at [Appendix A](#) suggest that this surplus / subsidy may have been upwards of £100k per annum. A review of historical balances does suggest looking at the recent couple of years that the trajectory of the deficit was positive



(‘movement’), even disregarding the £100k, i.e. that spending levels are being more than contained within the School’s annual budget share.

<u>Financial Year</u>	<u>Year-End Revenue Balance (£)</u>	<u>Movement from previous year (£)</u>
2014/15	(248,665)	(403,410)
2015/16	(363,981)	(115,316)
2016/17	(119,156)	244,825
2017/18 (predicted underspend)	100,000 (est.)	219,156

These outturn figures do suggest that the School is on a firmer financial footing than at any stage in the past few years.

- 4.5.3 A five-year budget plan was tabled and discussed at the School’s Finance Committee meeting of 11<sup>th</sup> May 2017. This five-year plan models the School’s budget moving forward assuming the loss of LCC funding for residential provision (and associated expenditure) with effect from September 2018 and projects the year-end positions in future, as follows:

<u>Financial Year</u>	<u>Predicted Year-End Balance (£)</u>
2017/18 (*)	59,504
2018/19	150,295
2019/20	120,177
2020/21	53,659
2021/22	(49,735)

The conclusion drawn from this five-year budget is that the School predicts that it will be in the black at the end of the current financial year ((\*) and indeed the £59k figure shown is expected by the School to be higher still, potentially £100k) and remain in the black without LCC funding for residential provision until at least the 2021/22 financial year when a deficit is again predicted although no real reliance can be placed on projections so far into the future.

#### **4.6 To establish current overnight occupancy levels**

- 4.6.1 The establishment has historically had a 24 bed capacity although that has been reduced on the instructions of the local authority to 20 due to fire safety concerns and two bedrooms being decommissioned. The facility comprises both a male and a female floor. Places are offered to Year 7 to 11 pupils on a half-termly basis, and the School’s preference is for pupils stay for two nights per week, either Monday-Tuesday or Wednesday-Thursday, of which the registers examined suggest most participating pupils do. There is no

provision on Fridays or weekends. Each pupil is offered a maximum of 3 x half of a term, limited to such so that more pupils can access the provision over the course of the year. The [REDACTED] explanation to this is ‘...two nights per week for half a term on a rotational basis therefore typically have three periods of residence during the academic year’. In addition, there is one week of each term where the facility is exclusively for Post-16 pupils.

- 4.6.2 A review of registers for the month of October 2017 suggests high but not full capacity. As a crude analysis of one month (2<sup>nd</sup> October to 2<sup>nd</sup> November, disregarding half-term week), and taking into account that the standard the registers are maintained is somewhat indifferent, occupancy has been estimated as follows:

Occupancy	% Full (*)	Number of Occasions (out of 16 maximum)	% of Occasions
16 pupils	80%	4	25.00
15 pupils	75%	1	6.25
14 pupils	70%	0	0.00
13 pupils	65%	6	37.00
12 pupils	60%	2	12.50
11 pupils	55%	1	6.25
10 pupils	50%	2	12.50
TOTAL		16	100.00

**4.7 To confirm that the funds provided by the Council have been used in keeping with requirements applicable to the allocation of High Needs Block (HNB) funding**

- 4.7.1 Given this is a matter of legal interpretation, we have sought the advice of the Council's Director of Law and Governance on this point given it requires an interpretation of Education Law, DfE regulations and guidance. This advice note is provided at [Appendix B](#) (paras 1-8 refer).

## 5. Conclusions

### 5.1 To confirm the actual costs of operating the residential provision at Maplewell Hall Special School, in the context of the annual High Needs Budget (HNB) funding allocation provided by the Council

5.1.1 Whilst there is no requirement for the School to separately account for residential costs, nor indeed is the School's financial information system geared up to do so, we have sought to estimate the total costs based on the School's budgeted figures for direct costs, further apportionments of indirect costs, and estimated additional income receivable from parents / PPG transfers.

5.1.2 Despite the complexities of identifying all relevant costs individually, evidence provided to governors along with some assumptions regarding further indirect costs does support the view of the School that LA funding levels are more than sufficient to meet the costs of the total residential provision. See [Appendix A](#).

5.1.3 The audit work does give rise to two specific issues from a moral standpoint requiring further consideration, although we would emphasise in each instance there is no suggestion of the School acting contrary to Education law. These are:

- Whether, given the well-publicised pressures on the LA's High Needs budget, the School and its governors should have made earlier representations to the County Council that the funding it receives for residential provision is more than sufficient for its needs and that, in its own words, the School could run the provision on a much lesser allocation; and
- The decision by the School to seek additional contributions from parents, albeit voluntary, in respect of activities considered by the School to already be generously funded through LCC grant.

We do not seek to offer an opinion on either of these matters as they are outside of the scope of the audit engagement.

### 5.2 To clarify the division of operating costs between after-school activities and the residential overnight stays that follow this

5.2.1 There is no easy way to split total residential costs between "pure" residential and after-school care. The School does not seek to distinguish between the two nor does its accounting structure facilitate the separate identification of costs. We are, therefore, of the opinion that there is limited value in trying to further sub-analyse costs based on a number of assumptions and estimates.

5.2.2 Rather than us trying to "second guess" what an after-school only provision may look like in the future there is logic in the department asking the School to develop a model, with estimated costs, setting out how it foresees the provision might operate. There would subsequently then be a role for the

department to 'stress-test' such a model for reasonableness. Any model would need to take into account specifics such as:

- Proposed hours of operation
- Proposed number of days per week
- Type of provision (e.g. with a teaching element, solely wrap-around childcare, blend etc.)
- Optimal capacity
- Estimated take-up
- Estimation of staffing required, based on estimated take-up, and mix of staff by type (e.g. RCCO, evening support workers, management)
- Estimated staffing costs based on above mix, including on-costs
- Whether senior management would be required to be present, and if so whether this would bring additional cost, e.g. management allowances?
- Estimated non-staffing costs, e.g. materials, meals, insurance, publicity
- Estimated indirect costs, e.g. energy, caretaking and cleaning
- Regulatory requirements, e.g. OfSTED, and associated costs
- Proposed charges and estimated income from charges
- Whether charges would be mandatory or voluntary
- Whether there is valid argument to utilise pupil premium grant to cover the costs of pupils whose parents/guardians are unable to pay
- Any additional transport costs
- In-house provision or external

The above gives a flavour of the complexities and it should be recognised that, as a Special School, any after-school provision is likely to be fundamentally quite different to a mainstream school's after-school club.

**5.3 To confirm that the residential funding provided by the Council has been managed by the governing body and senior leadership team in accordance with the Leicestershire Scheme of Financing of maintained schools, and demonstrates robust procedures and financial probity**

5.3.1 Under the Leicestershire Scheme for Financing Schools a governing body is responsible for setting and monitoring spending and is free to use the total quantum of funding for the purposes of the school subject to any restrictions set out in the Scheme. As the LCC funding provided was not ring-fenced, nor subject to any specific commissioning agreement, in our opinion the School and its governing body has not acted contrary to the Scheme in how this funding has been allocated to be spent nor in its inability to account for it separately.

5.3.2 The School's charging and remissions policy (2014) is in our opinion inadequate in that it fails to stipulate charges (and remissions) with specific regard to residential provision. Additionally, at the time of the audit, the policy was not accessible via the School's website. This is technically a breach of the Education Act 1996, as supplemented by DfE guidance on the publishing of charging policies. The School contends that it is aware that its charging policy is outdated and not fit-for-purpose, that it is currently under review and

that the link to it on the School web-site has been purposely deactivated pending the review.

5.3.3 The audit work done does give rise to two specific issues from a moral standpoint requiring further consideration. These are:

- Whether, given the well-publicised pressures on the LA's High Needs budget, the School and its governors should have made earlier representations to the County Council that the funding it receives for residential provision is more than sufficient for its needs and that, in its own words, the School could run the provision on a much lesser allocation; and
- The decision by the School to seek additional contributions from parents, albeit voluntary, in respect of activities considered by the School to already be generously funded through LCC grant.

**5.4 To confirm the rationale for parental contributions towards the cost of the residential provision, and how and when the charging policy was implemented**

5.4.1 We have been unable to confirm the rationale for the School seeking parental contributions or indeed decisions taken *how much* to request by means of voluntary contributions. The arrangement appears to go back a number of years and, according to the [REDACTED] and [REDACTED] was a decision taken by previous senior leadership. The School has been asked to search for governors' minutes in support of any decisions to charge for residential provision but, to date, nothing has been found.

5.4.2 The School's "Charges, Voluntary Contributions & Remissions" policy is dated 2014. We have seen adequate evidence of the policy being scrutinised by the Finance Committee and subsequently being formally approved by the full governing body (both January 2014). The School concedes that the policy is somewhat outdated and is planned for revision.

5.4.3 We have taken the advice of the Director of Law and Governance with regard to the legal requirements for charging policies. This advice note is provided at [Appendix B](#) (paras. 9-13 refer). Paragraph 11 of the advice note states that, "The charge must not exceed the actual cost of providing the optional extra activity divided equally by the number of pupils participating." Whilst daily charges are relatively modest (notionally £4.50 for after-school care only and £8 for both after-school care and residential stay), it is a matter of interpretation whether the School is in breach of paragraph 9 given that the cost of residential activities is technically funded through LA grant.

**5.5 To understand the impact to the School's overall financial position arising from a potential removal of the residential funding**

5.5.1 The School's historical deficit budget is expected to be back into the black at the end of the current (2017/18) financial year, and ahead of target.

5.5.2 There can be no doubt that any surplus LCC funding for residential provision (over associated costs) will have been used elsewhere in the School budget and indirectly therefore used to help to eradicate the historical deficit. This is not, however, considered to be contrary to the LA Scheme for the Financing of Schools as it is a matter for local governors to determine how to allocate the total School budget, including the non-ring fenced LCC residential top-up funding.

5.5.3 The School's five-year budget tabled and discussed by governors at the Finance Committee in May 2017 is based on the assumption that LCC funding for the residential provision will cease with effect from September 2018. Nevertheless, the five-year projections are clear that the School projects that it is likely to remain financially sustainable moving forward at least until the 2021/22 financial year, even after taking into account any removal of LA funding. The five-year plan is currently being reviewed and 'stress-tested' for reasonableness by the C&FS Finance Business Partner team.

## **5.6 To establish current overnight occupancy levels**

5.6.1 The establishment has historically had a 24 bed capacity although that has been reduced on the instructions of the local authority to 20 due to fire safety concerns and two bedrooms being decommissioned. A review of registers for the month of October 2017 suggests high but not full capacity. For the month of October 2017, a review of the registers concluded that the highest occupancy night was 16/20 pupils (80%) and the lowest 10/20 pupils (50%).

## **5.7 To confirm that the funds provided by the Council have been used in keeping with requirements applicable to the allocation of High Needs Block (HNB) funding**

5.7.1 Given this is a matter of legal interpretation, we have sought the advice of the Council's Director of Law and Governance on this point given it requires an interpretation of Education Law, DfE regulations and guidance. This advice note is provided at [Appendix B](#) (paras. 1-8 refer).

## **6. Recommendations**

6.1 The contents of this report are noted.

**Appendix A – Financial Projections****Whole Budget - Full Residential Provision (ASC and "pure" residential)**

	<u>£</u>	
A LA funding	287,852	
B Parental Contributions	8,629	
C PPG Transfers	12,439	
<b>TOTAL INCOME</b>	<b>308,920</b>	
D Direct Staffing	-145,414	
E Miscellaneous Expenditure	-1,000	
F Energy Apportionment	-10,681	
G Other Premises Costs Apportionment	-15,261	
H Estimation of Other Costs	-13,000	
<b>TOTAL EXPENDITURE</b>	<b>-185,356</b>	64.4% of LA funding
 <b>NET SURPLUS OF RESIDENTIAL</b>	 <b>123,564</b>	
 <i>Net Surplus of Residential ignoring parental contributions and PPG transfers</i>	 <b>102,496</b>	

**Appendix B****Director of Law and Governance****Advice note dated 21<sup>st</sup> December 2017****School Funding and Charging****LA funding**

1. The relevant legislation<sup>1</sup> provides that the Secretary of State may give financial assistance to the Local Authority for the purposes of the provision of education or educational services. This is given in the form of the Dedicated Schools Grant (DSG). The grant is made up of three unequal parts
  - a. The Schools block (to provide the budget for maintained schools other than special schools)
  - b. The Early Years block
  - c. The High Needs block
2. The High Needs Block of the DSG includes an amount to meet the needs of pupils with High Needs defined<sup>2</sup> to include pupils aged 5- 18 years with high levels of SEND in maintained schools which receive top-up funding from the High Needs budget.
3. The DfE is empowered to attach conditions to the DSG .This is achieved through grant conditions issued by the Education Funding Agency<sup>3</sup>.

---

<sup>1</sup> Education Act 2002 Section 14

<sup>2</sup> High Needs Funding Operational guidance 2017-18 DFE

<sup>3</sup> Education Funding Agency Dedicated Schools Grant - Conditions of Grant 2017-18



4. The High Needs funding is not ring-fenced within the DSG and the LA can decide to spend more or less than the total funding that they have been allocated for high needs.
5. The LA has continuing responsibility for financial regularity in relation to the DSG and there is an obligation on the Director of Finance, as the Section 151 Officer, to ensure that the grant monies are spent on the proper purpose for which they are intended by the Regulations. The Director of Finance is required to certify that the DSG has been deployed in accordance with the regulations and the Secretary of State may recover the DSG if there has been a failure to use it for its intended purpose or other failure to comply with the grant conditions.

### School funding

6. The LA is required<sup>4</sup> to have in place a Scheme for financing maintained schools containing information prescribed in the regulations<sup>5</sup>. The legislation<sup>6</sup> also requires that all maintained schools must have a delegated budget so that the Governing Body of the school manages the school's budget share; the amount made available under the delegation remains the property of the LA until it is spent by the Governing Body or Headteacher and when spent it is taken to be spent by the School as the agent of the LA<sup>7</sup>.
7. Subject to the LA scheme for Financing Schools, the Governing body may spend such amounts as they think fit but subject to the statutory requirements<sup>8</sup> that this is

<sup>4</sup> s48 School Standards and Framework Act 1998

<sup>5</sup> Reg 30 and Schedule 5 Schools and Early Years Finance (England) Regulations 2017

<sup>6</sup> s49 School Standards and Framework Act 1998

<sup>7</sup> s49(5) SSFA 1998

<sup>8</sup> s50(3) SSFA 1998

only for the purposes of the school (or any purposes prescribed by the Secretary of State).

8. The relevant Regulations<sup>9</sup> set out the funding arrangements for places at a special school and provide that there should be core (or place) funding of £10,000 per place for pupils within the special school and any top-up funding identified to meet the needs of the individual pupil if the cost of the provision is more than allocated through the core funding. In such cases the LA will allocate the special school with additional top-up funding to enable a pupil or student with higher needs to participate in education and learning. The top-up funding is to be agreed per pupil paid by the commissioning LA and reflect the additional support cost an institution may incur relating to that individual pupil or student's needs or to reflect the costs relating to the facilities required to support a pupil or student's education and training needs. The guidance confirms that in all instances a higher needs pupil placement must be commissioned by the Local Authority and an agreement must be in place between the school and the LA about the amount of top-up funding to be paid. The guidance provides as follows: "An institution will be allocated funding based on the total number of high needs places. For many high needs pupils or students the institution is named in the statement of SEN or EHC Plan. However, for funding purposes once this place funding is allocated to an institution it is not associated with or reserved for a specific Local Authority or individual pupil or student. It is for the institution to decide how best to apportion the total allocated place funding across the actual number of Local Authority commissioned places, taking into account the provision and support that may be specified in the statements of SEN or EHC Plans. Once a pupil or student is placed in an institution, the commissioning Local Authority then agrees an amount of top-up funding for the individual pupil or student over and above the place funding to make up the full cost".

---

<sup>9</sup> Regulation 14 School and Early Years Finance (England) Regulations 2017

**Charging arrangements**

9. The Governing Body of a school is not able to lawfully make a charge for education provided during school hours or outside of school hours if it is part of the national curriculum or part of the syllabus for a public examination<sup>10</sup>. The Governing Body may charge for:-
- a. Materials, books or equipment etc.
  - b. Optional extras.
  - c. Music and vocal tuition in certain circumstances.
10. Optional extras include education provided outside of school time (that is not part of the national curriculum or required for exam preparation or are religious educational), board and lodging for pupils on a residential visit, extended day services offered to pupils, for example breakfast club, after school club etc. The DFE guidance<sup>11</sup> provides that in calculating the cost of optional extras an amount may be included in relation to material provided in connection with the optional extra and teaching and non-teaching staff costs.
11. The charge must not exceed the actual cost of providing the optional extra activity divided equally by the number of pupils participating. It must not include an element of subsidy for any other pupils wishing to participate in the activity whose parents are unwilling or unable to pay the full charge. Participation in an optional extra activity is on the basis of parental choice and a willingness to meet the charges. Parental agreement is therefore a necessary pre-requisite for the provision of an optional extra where charges will be made.
12. Where board and lodging is provided by a maintained boarding school, the school can charge board and lodging providing that the charge does not exceed the actual

---

<sup>10</sup> s451 Education Act 1996

<sup>11</sup> DFE Charging for School Activities 2014

cost of the provision;<sup>12</sup> the charge is payable to the LA. In the case of a state boarding school any charge for extended day services for pupils (for example, breakfast clubs and after-school clubs etc.) must be optional.

13. The Governing Body may not lawfully make a charge unless it has drawn up a charging policy giving details of its charging provisions for optional extras and board and lodging. The policy must include a remissions policy<sup>13</sup> and that policy must provide for complete remission of charges in certain circumstances.

---

<sup>12</sup> s458 Education Act 1996

<sup>13</sup> S457 Education Act 1996