

Minutes: Special Educational Needs Working Party of the Governing Body of Dog Kennel Hill School held at 62 Oakhurst Grove on 6:30 on Monday 11 November 2013

PRESENT

Peter Bibby (Convenor)

Gillian Reeve
Yvonne Golds

Robyn Harrison

Absent Marion Cranmer

Apologies Eileen Wray

Amanda Freshwater

1. Appointment of a minute taker

The Convenor volunteered to take minutes

2. Child care arrangements

The Governing body will pay for the cost of child care such as a baby sitter

2. Minutes of meeting Monday 10 June 2013

The minutes of the last meeting were noted.

3. Annual reviews

Peter Bibby reported on one review, which went well.
Future reviews at 9:30 am on the following dates

2	December 2013	Peter Bibby
9 or 11	December 2013	Yvonne Golds
20	January 2014	Yvonne Golds
10	February 2014	Gillian Reeve
23	June 2014	Gillian Reeve
14	July 2014	Peter Bibby

4. Individual Children

We discussed individual children.

5. Teacher for young children with autism

Following our proposal at the last meeting, the school has employed an agency teacher for half a day a week to work mainly with children with autistic disorders who are currently in reception classes.

She has experience with autistic children, but has not had the specialist training that would be desirable. There is a lack of suitable available training led by either Southwark or the Institute of Education.

6. Draft SEN Code of Practice

The Government is seeking views on a Draft for the New SEN Code of Practice reflecting changes in legislation which are currently going through Parliament.

The School's proposed response is attached to these minutes.

7. Date of next meeting

Next meeting will be at 6:30 on Monday 27 January 6:30 at 62 Oakhurst Grove.

Dog Kennel Hill Primary School



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Headteacher Mrs Linda Ewers

Deputy Headteachers Mrs Eileen Wray and Mr Wayne Cooper

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November 2013

Top up funding

The Draft Code of Practice is unclear and confusing with respect to funding of special educational provision which costs more than the national threshold

Page 45. *If they (mainstream schools) can show that a child with SEN requires special educational provision that costs more than a certain threshold they can ask the local authority to provide top-up funding to meet that extra cost, whether or not the child has an EHC plan.*

Page 86. *Schools and colleges, however, are not expected to meet the costs of the more expensive support from their core funding. They are expected to provide additional support which costs up to a nationally prescribed threshold per pupil/student per year. However, where the cost of special educational provision required to meet the needs of an individual child or young person exceeds the nationally prescribed threshold, the responsible local authority, usually the authority where the child or young person lives, may provide additional top-up funding.*

Page 92. *A local authority must conduct an assessment of education, health and care needs and prepare an Education, Health and Care (EHC) plan when it considers that it may be necessary for special educational provision to be made for the child or young person through an EHC plan. This is likely to be where the special educational provision required to meet the child or young person's needs cannot reasonably be provided from within the resources normally available to mainstream early years providers, schools and post 16 institutions.*

Page 45 describes the power of Local Authorities to make payments to schools for SEN provision exceeding the national threshold in circumstances where there is not an Education, Health and Care plan. It is reasonable for Local Authorities to have a discretion to make such payments, for example for a child or young person with high-level needs who does not yet have an Education, Health and Care plan.

Once a child or young person has an Education, Health and Care plan that specifies provision which would cost more than the national threshold, surely the Local Authority **must** provide top up funding to the school, unless the cost is to be met by way of a direct payment. The paragraph on Page 86 quoted above explains that the school is not expected to pay for provision in excess of the national threshold. Page 121 continues the existing position that *Local authorities must arrange the special educational provision specified in the plan*. It follows that local authorities **must** provide the top up funding if they are to discharge their duty to arrange.

The paragraph from page 92 reiterates the old formulation that applied to the decision to issue a statement. This called for a different statement threshold in each local authority based on a complex analysis of the individual authority's education budget. The introduction of the national threshold should displace the old formulation. The words *cannot reasonably be provided from within the resources normally available to mainstream early years providers, schools and post 16 institutions* should be deleted and replaced with **would cost more than the national threshold**.

Content of EHC Plans

Page 103 states that: *All EHC plans must include c) The outcomes sought for the child or the young person, including outcomes for adult life where appropriate.*

The Draft Code advises: *Outcomes in EHC plans should be SMART (specific, measurable, achievable, realistic, time-bound). It needs to be clear how specified provision and support will help the child or young person to achieve the outcomes. There should also be clarity about how to judge that an outcome has been achieved.*

The advice is too specific. The proposal is too detailed to be appropriate. Previously this level of detail would have been in an Individual Education Plan. Individual Education Plans have been excluded from the Draft Code. Specific, measurable and time-bound targets are too detailed for the Local Authority to be able to draft, consult the health authority and incorporate in EHC Plans and then modify them annually. Local authorities have struggled and often failed to keep statements up to date.

It is not unusual for our local authority to refuse to amend a statement following an annual review. In one example the local authority refused to amend Part 2 of a statement which they had written five years ago. It said: *He is still in nappies. He demonstrates the range of behaviours typical of a three year old.* Neither of these assertions were any longer true.

There is no reasonable prospect of local authorities being able to effectively generate SMART outcomes and include them in annually updated EHC Plans.

Scope of Appeals

Page 121 refers to the right of appeal being limited: *The child's parents or the young person may appeal against the description of SEN in the EHC plan, the special educational provision, and the school or other provider named, or if no school or other provider is named, that fact.*

There is no appeal against:

- a. *The views, interests and aspirations of the child and their parents or young person.*
- c. *The outcomes sought for the child or the young person, including outcomes for adult life where appropriate.*

This will lead to the bizarre position at the Tribunal where parts a or c of the EHC plan are plainly wrong: They may be years out of date: The local authority may have misinterpreted the views of the child and their parents, but the Tribunal will not be able to make changes. For example an outcome specified in part c written five years ago might be *to remain in mainstream education*, when the current appeal is seeking a placement in a special school.

The right of appeal should include Parts a and c of the EHC plan.

Mediation

On Page 164 the draft Code of Practice explains that a parent must contact a mediator and get a certificate before lodging an appeal. *The certificate will enable the parent or young person to lodge their appeal, within one month of receiving the certificate.*

There is a difficulty because the 1 month certificate could extend the time for appealing to the Tribunal from two months to three months but also it could reduce the time from two months to one month. That would be unfair. The time limit should be the Tribunal's two months or one month from receipt of the mediation certificate whichever is the later date.

On Page 165 the draft Code of Practice explains: *The certificate will not set out any details about what happened in the mediation – it will simply state the mediation was completed at a given date.* The Code should exclude offers made during mediation from being admissible in evidence at the Tribunal by applying the *without prejudice rule* to all communications.

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Time limits

On Page 168 the draft Code of Practice says: *Appeals must be registered with the Tribunal within two months of the local authority sending a notice to the parent.* The current rule is that the two months runs from receipt of the notice by the parent. There is no benefit in changing the rule to the date of sending. The date of sending is not always easily ascertainable. It is inconsistent to use date of sending from a local authority but date of receiving from a mediator.

On Page 121 the draft Code of Practice says: *Where changes are not agreed, the local authority may still proceed to issue the final EHC plan.* It would help if this was followed by the words *and **must** do so within the statutory time limit.*

Progress check at age two

The draft Code of Practice describes a universal progress review at age two: *focusing in particular on: communication and language* The Code should make reference to the language normally spoken in the child's home in order to avoid the progress review only assessing English.



Peter Bibby
Convenor Special Educational Needs Working Party