



Title of meeting: Schools Forum

Date of meeting: 24 May 2022

Subject: Element 3 Top-up funding 2022-23

Report by: Sarah Daly, Director Children, Families and Education

Wards affected: All

Key decision: Yes/No

Full Council decision: Yes/No

1 Purpose of report

- 1.1 The purpose of this report is to inform Schools Forum of proposed changes to the 2022-23 Element 3 Top-up values at:
- The Flying Bull Academy Alternative Provision
 - Redwood Park Academy.

2 Recommendations

- 2.1 It is recommended that Schools Forum endorse:
- 2.1.1 The proposal to increase the Element 3 top-up value at The Flying Bull Academy Inclusion Centre from 1 January 2023 as set out in section 4.
- 2.1.2 The corrected Redwood Park Academy Element 3 Top-up values as set out in Appendix C.

3 Background

- 3.1 The Dedicated Schools Grant (DSG) is a ring-fenced grant for Education and can only be used for the purposes of the Schools Budget as defined in the School and Early Years Finance (England) Regulations.
- 3.2 In February 2022, the Cabinet Member for Children, Families and Education approved, and Schools Forum endorsed, the original DSG budget for the 2022-23 financial year.
- 3.3 The February 2022 reports advised Schools Forum and the Cabinet Member that the authority was in discussion with The Flying Bull Academy regarding a request to increase the Element 3 Top-up value paid by schools for those pupils placed at the Flying Bull Alternative Provision setting. Appendix A includes the report



setting out the background to the request and the results of the consultation with schools.

3.4 The 2022-23 budget contained Element 3 Top-up values for Redwood Park School, but when the report was presented to Schools Forum and Cabinet Member the incorrect values were quoted. This report confirms the correct values to Schools Forum and Cabinet Member for formal endorsement and approval.

4 The Flying Bull Academy Alternative Provision Element 3 Top-up values 2022-23

4.1 The Flying Bull Academy are seeking to increase the Element 3 Top-up rate for the Alternative Provision setting at the school from £6,160 to £8,750 from 1 January 2023.

4.2 The Flying Bull Academy is commissioned by the authority to provide an Alternative Provision offer to primary pupils in the City and in line with expected future requirements, the number of places are being increased from 16 to 32 by September 2023.

4.3 The school has stated that due to the increased size of the Alternative Provision setting the current staffing model will not provide the level of education and support required. They have provided a business case which sets out the new staffing structure and demonstrates that the level of funding currently provided will be insufficient to cover the cost of delivery. This has been scrutinised and tested by the authority. The increased funding will ensure the appropriate level of over-sight and support from the SENCO, qualified teaching staff and support staff is available to ensure the needs of this cohort of pupils, often with very complex needs, are addressed. This is seen as critical to the success of the expanded provision and to securing positive outcomes for the pupils so that they can return to mainstream provision.

4.4 The reasons behind the proposed increase were communicated to mainstream primary schools (maintained and academy) and the primary phase of Mayfield School on 22 March 2022. Schools were asked to comment on the proposal by the 8 April 2022. A copy of the consultation document and business case shared with schools can be found in Appendix A.

Feedback from schools

4.5 A total of 47 maintained and academy primary schools were contacted of which six (13%) responded. The table below sets out the responses by maintained and academy sectors.



Table 1 - Summary consultation results		
	Question 1	
	Do you accept the proposed increase in the Element 3 Top-up value	
	Yes	No
Maintained Primary schools*	3	1
Academy Primary Schools	2	0
Total	5	1
Percentage of total responses	83%	17%

*Includes Mayfield Primary

4.6 Of the six schools that responded five agreed with the proposal and one didn't. It must be assumed that the remaining schools that didn't respond are either in agreement with the proposal or don't feel that they could influence the decision.

4.7 In addition to schools confirming whether they agreed or disagreed with the proposal, they were invited to raise any comments regarding the proposal, and these are set out in Appendix B. Officers have responded to individual schools regarding any questions and Appendix B details the questions and the authority responses.

5 Redwood Park Academy Element 3 Top-up values 2022-23

5.1 The 2022-23 budget report contained Element 3 Top-up values for Redwood Park School in Appendix 3, but when the report was presented to Schools Forum and Cabinet Member the incorrect values were quoted.

5.2 The approved budget for 2022-23 was calculated using the correct Element 3 Top-up values for Redwood Park and the school was informed of the correct values in February 2022 along with their budget share and have been receiving payments based on these values from 1 April 2022.

5.3 Appendix C sets out the corrected Element 3 Top-up values for 2022-23 implemented from 1 April 2022.

6 Reasons for recommendations

6.1 Element 3 Top-up funding does not form part of the budget share and therefore can be updated with Cabinet Member approval after the DSG budget has been set. The authority has consulted with Schools to seek their views the outcome of which is included in this report. Schools Forum are asked to consider the proposals and endorse the recommendations, before going to Cabinet Member for approval and implementation.

7 Integrated impact assessment

7.1 An integrated impact assessment is not required as the recommendations do not have a positive or negative impact on communities and safety, regeneration and culture, environment and public space or equality and diversity.

8 Legal implications

8.1 There are no legal implications arising directly from the recommendations in this report.

9 Director of Finance's comments

9.1 Financial comments and implications are included in the body of this report.

Signed by: Sarah Daly, Director of Children Families and Education

Appendices:

Appendix A: Flying Bull Consultation Document

Appendix B: Questions and responses from consultation responders

Appendix C: Redwood Park Academy Element 3 Top-up values for 2022-23.

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
School and Early Years Finance (England) Regulations 2022	The School and Early Years Finance (England) Regulations 2022

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

.....
Signed by: **Sarah Daly Director Children Families and Education**

The Flying Bull Academy request for additional Element 3 Top-up

Consultation
Spring 2022

**The Flying Bull Academy request for additional Element 3 Top-up 2022-
23
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1 Introduction

1.1 Who is the consultation for?

1.1.1 The consultation is for all Portsmouth City Council mainstream primary schools, maintained and academy and the primary phase of Mayfield School.

1.2 Background

1.2.1 The Flying Bull Academy is commissioned by the authority to provide an Alternative Provision offer to primary pupils in the City.

1.2.2 Following the publication of the SEND Strategic Review in 2018, Portsmouth commissioned further work looking at the accommodation requirements from 2021 onwards. The Portsmouth SEND Accommodation Strategic review (November 2020) identified a need for further Alternative Provision places in the City by September 2022.

1.2.3 The authority has been in discussion with The Flying Bull Academy and agreed to fund an extension of the current Alternative Provision from the Education Capital Programme, which will increase the number of places available from 16 to 32 by September 2023.

1.2.4 The school has stated that due to the increased size of the Alternative Provision setting the current staffing model will not provide the level of Education and support required. They have provided a new staffing structure, but the level of funding currently provided will be insufficient to cover the cost of delivery. They have therefore asked for an increase in the Element 3 Top-up value and will ask placing schools to provide any pupil premium funding attached to the placed pupil, as per the Department for Education (DfE) guidelines¹.

1.2.5 As schools are responsible for paying the Element 3 Top-up to the Alternative Provision setting when they place a pupil at the setting, we are contacting schools to explain the educational reason for the increase, the financial background and to seek their comments to inform the proposal to schools Forum and Cabinet Member in May 2022.

1.3 Current Funding

1.3.1 Funding for alternative provision settings is on a place plus basis.

- a **Places** are funded at £10,000 per place, regardless of whether the place has been commissioned directly by a school or the local authority. The school receives the funding whether the place is occupied or not. This is funded by the Local Authority's High Needs Block.

¹ [Using pupil premium: guidance for school leaders - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/using-pupil-premium-guidance-for-school-leaders)

- b **Plus**, this is known as Element 3 Top-up and is paid for the period a pupil attends the Alternative Provision setting. Funding for Element 3 Top-up will come from two sources.
- **Single registered pupils** - Portsmouth City Council, High Needs Block
 - **Dual registered pupils** - from the school where the pupil is main registered.

1.3.2 Most of the pupils attending Flying Bull are dual registered and therefore Element 3 Top-up funding is paid by the school where the pupil is main registered.

1.3.3 The Element 3 Top-up value for 2022-232 is £6,610 per annum. As Element 3 Top-up does not form part of the School Budget Share, the authority can go back to Schools Forum and the Cabinet Member for a change in Element 3 Top-up rates as part of the Revised Budget.

1.4 Proposed changes - Element 3 Top-up

1.4.1 The increase in place numbers is expected to start from 1 January 2023, with a further increase to full capacity of 32 places in September 2023, as set out in the table below.

2022-23			2023-24			2024-25		
Place numbers			Place numbers			Place numbers		
Apr 2022 to Dec 2022	Jan 2023 to Apr 2023	Average Total	Apr 2023 to Aug 2023	Sept 2023 to Mar 2024	Average Total	Apr 2024 to Aug 2024	Sept 2024 to Mar 2025	Average Total
16	24	18	24	32	26	32	32	32

1.4.2 The proposal is to increase the Element 3 Top-up value to £8,750 from 1 January 2023 in line with the implementation of the new staffing structure and the additional places.

1.4.3 The school has provided a business case for the extended service which can be found at Appendix 1. They have also provided financial modelling demonstrating the impact on the budget if the Element 3 Top-up remains at £6,610 and compared to the requested increase to £8,750. This is summarised in Appendix 2.

1.4.4 This identifies that the current Element 3 Top-up values do not cover the costs per pupil. The table below summarises the costs and income per pupil, using the current Element 3 Top-up value and the proposed Element 3 Top-up value.

² From April 2022

	Element 3 Top-up value £6,610			Element 3 Top-up value £8,750		
	Academic Year			Academic Year		
	2021-22	2022-23	2023-24	2021-22	2022-23	2023-24
	£	£	£	£	£	£
Cost per pupil	16,261	18,731	19,036	16,261	18,731	19,036
Income per pupil	(15,806)	(17,053)	(17,038)	(15,806)	(18,658)	(19,044)
(Surplus)/Deficit	455	1,679	1,998	455	74	(8)

- 1.4.5 It should be noted that the financial modelling includes an element of inflation in the future costs for both pay (4% average) and non-pay (1.3% average). The income does not include any inflationary increase.
- 1.4.6 In recent years the authority has proposed a percentage increase to Element 3 Top-up values paid either by the authority to Special Schools and Inclusion Centres or by Schools to the Alternative Provision settings in line with the percentage increase for mainstream school budgets. There is no guarantee that this increase will happen in future years as it is dependent on the funding received from central government. Should the increase in the Element 3 Top-up value be agreed by Schools Forum and the Cabinet Member for implementation in January 2023, then schools should be aware there is potential that the rate may increase in April 2023 following the 2023-24 national funding formula announcements.
- 1.4.7 Schools are asked to consider the request by The Flying Bull Academy to increase the Element 3 Top-up value to £8,750 from 1 January 2023 to enable them to implement the new staffing structure to provide the required educational support to the additional pupils.
- 1.4.8 The responses will be reported to Schools Forum for discussion and endorsement at the meeting in May 2022. The Cabinet Member for Education will take into consideration the outcomes of the consultation and the discussion at Schools Forum before making a final decision regarding the proposed increase.

1.5 Proposed changes - Pupil Premium grant

- 1.5.1 Currently Flying Bull Primary Academy does not ask schools to provide the pupil premium grant for the period of time the pupil is placed in the Alternative Provision.
- 1.5.2 Whilst the Department for Education (DfE) guidance³ no longer states that the funding must follow the pupil, it states that Alternative Provision settings are able to

³ [Using pupil premium: guidance for school leaders - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/using-pupil-premium-guidance-for-school-leaders)

"include a pro-rata pupil premium sum in the cost of a place for pupils placed in AP settings".

- 1.5.3 Flying Bull Primary Academy are proposing to request the pupil premium funding for those pupils who are eligible for free school meals or have been eligible in the past six years. This will reflect the DfE guidance, and the practice seen in other Alternative Provision settings in the City.
- 1.5.4 To enable schools to plan for the change, Flying Bull Primary Academy is proposing to request pupil premium funding from the beginning of the 2022-23 academic year.
- 1.5.5 Schools are asked to note the change and to comment on the proposed dates of implementation.

2 Responding to the Consultation

- 2.1.1 A consultation response is attached at Appendix 3 for schools to complete. As in previous consultations, we have asked if you agree with the proposal and if you have any comments.
- 2.1.2 The consultation will close on **Friday 8 April 2022**.
- 2.1.3 Please send your completed response forms to: -

schoolsfinancialsupport@portsmouthcc.gov.uk

3 Appendix 1: - Education rationale Chichester Multi Academy Trust



Title of meeting: Schools Forum

Date of meeting: tbc

Subject: School Specific Financial Request

Report by: Carl McCarthy – Consultant Headteacher, The University of
Chichester Multi-Academy Trust

The Hewett-Dale Centre

1 INTRODUCTION

- 1.1 The Flying Bull Primary Academy is a school in the Heart of Portsmouth that caters for children aged 2 to 11, and currently includes a 16-place alternative provision for children with Social, Emotional and Mental Health difficulties for pupils from Reception to Year 4. The alternative provision was driven by the dedication of Deamonn Hewett-Dale and has a strong track-record of offering a high-quality provision and successful placements built on strong relationships between Portsmouth schools, PCC and Flying Bull staff. There has always been a genuine sense of education professionals working in partnership to secure positive outcomes for our most vulnerable children across the city. Our aim is to continue to promote this model and build on this successful partnership for the benefit of the children
- 1.2 The increasing number of children with SEMH in the city has led to PCC funding the expansion of the provision at Flying Bull so that it is able to double its capacity and provide for 32 children from reception to year four.

2 SUMMARY OF CHANGE

- 2.1 In February 2022 building work began to expand the Flying Bull alternative provision unit to establish a new, 32 place inclusion centre. The centre will be named The Hewett-Dale Centre which is a fitting legacy to our much-loved Headteacher who sadly died in the summer and was a great champion for the most vulnerable.
- 2.2 The current provision has a single classroom and a single teacher for 16 children but with children with increasingly complex needs the mainstream school has had to provide considerable additional support to meet the children's needs. This is no longer sustainable and is taking funding and resources away from the mainstream school with the provision running at a deficit if this contribution is considered within the costs.
- 2.3 The current provision has no dedicated leadership time. SENCO time, or administrative support and is currently using school leadership resources to meet these needs. Over the recent months it has become clear that the time needed to manage and lead the provision has grown significantly with the complexity of children and will also grow again with the increase in size of the provision. The school is no longer able to provide the level of resource required.
- 2.4 There has been significant change in the client group of children over the last four years. Four years ago, only two of the 14 children had an EHCP and needs for these children could be met in a single group with additional 1:1 support provided for the two children. Now, 13 of the children have an EHCP and many of them need full-time 1:1 support with additional staff also needed when they are distressed, to prevent them harming themselves or others. The original funding agreement and staffing model was not designed with this high level of SEND need in mind. As a result, we need to staff the centre differently to meet the increased level of need and the requirements of an expanding number of pupils on roll.

3. NEED FOR FUNDING INCREASE

- 3.1 Dedicated leadership time needs to be available in order to provide day-to-day support for the increased levels of staffing and increased numbers of pupils. In addition, increased leadership capacity will offer more opportunities for liaison and communication between commissioning schools as required by Ofsted. It will also enable increased liaison with parents, as well as enabling an enhanced provision of outreach and training support.
- 3.3 Currently, the school has a single SENCO who provides SEND support for the school and the alternative provision and is funded by the school budget. This was an acceptable workload when there were only one or two children with EHCP in the provision but is no longer manageable with 13. If the current situation continues with almost all children having an EHCP, the work to manage potentially 32 EHCPs requires dedicated SENCO support.
- 3.4 The new centre will have three classrooms each for a group of between eight and twelve children and will need three teachers once it reaches its full capacity to meet the needs.

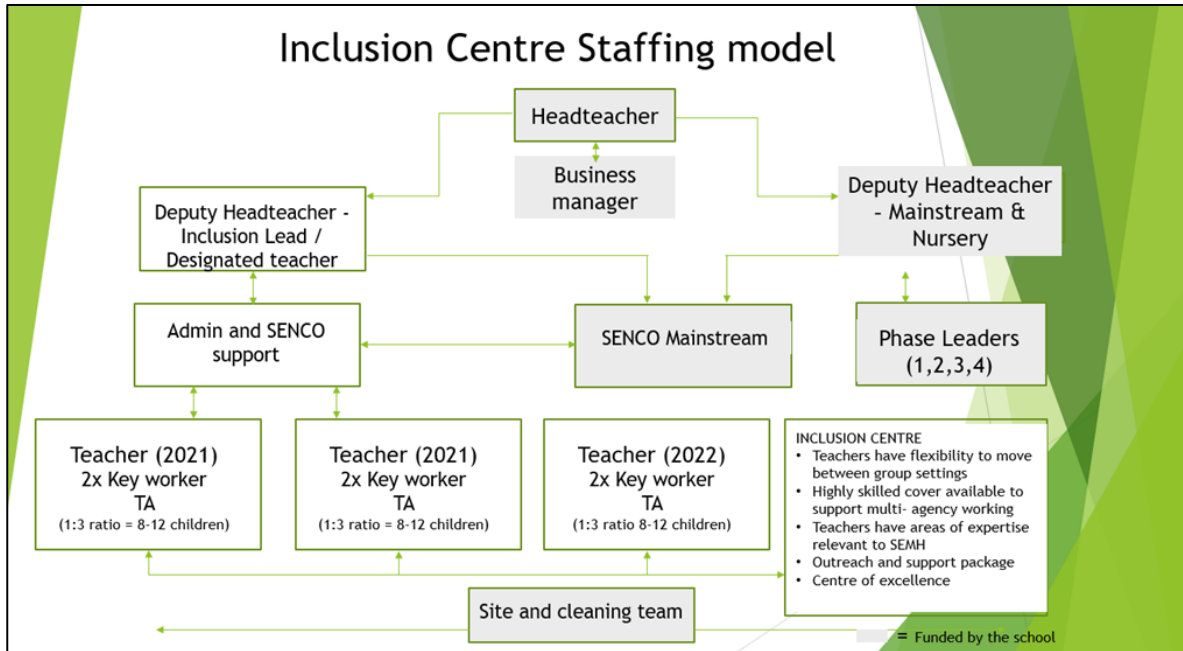
With flexible and creative use of these staff they will not only be available within the Centre but would also be available to provide outreach and transition support for home schools.

4 CONCLUSION

- 4.1 The Flying Bull Academy wishes to continue working with Portsmouth schools in the spirit of partnership to support some of the most vulnerable children in the City. Currently the school is subsidising the running of the alternative provision and this subsidy is increasing significantly because of the increased complexity of needs of the children who are attending the provision. If we are to provide a greater number of places and high quality provision to meet the needs of the children and to support the home schools with transition and re-integration, we are seeking a funding increase as identified in the consultation paper.

4 Appendix 2: - Staffing Structure and Financial Modelling of the new provision.

4.1 Staffing Structure - Extended Provision



New structure (white background).

4.2 Financial modelling of the impact of the extended provision and new staffing structure.

	Current structure and Element 3 Top-up values			New structure and Element 3 Top-up values		
	Academic Year			Academic Year		
	2021-22	2022-23	2023-24	2021-22	2022-23	2023-24
	£	£	£	£	£	£
Income						
High Needs funding	(250,659)	(349,793)	(518,300)	(250,659)	(384,033)	(582,500)
Other income	(2,235)	(13,995)	(26,900)	(2,235)	(13,995)	(26,900)
Total income	(252,894)	(363,788)	(545,200)	(252,894)	(398,028)	(609,400)
Expenditure						
Teaching staff	77,595	160,026	271,456	77,595	160,026	271,456
Teaching Support staff	169,512	176,693	246,621	169,512	176,693	246,621
Other staff	2,861	23,910	36,117	2,861	23,910	36,117
Non staffing costs	10,210	38,973	54,945	10,210	38,973	54,945
Total expenditure	260,177	399,602	609,139	260,177	399,602	609,139
In year (Surplus)/Deficit	7,283	35,814	63,939	7,283	1,574	(261)
Brought forward		7,283	43,097		7,283	8,857
Net (Surplus)/Deficit	7,283	43,097	107,036	7,283	8,857	8,596

5 Appendix 3: - Consultation response

School name:

Date:

1	To support the extended provision and enhanced educational support, do you accept the proposed increase in the Element 3 top-up value at Flying Bull Primary Academy Alternative Provision Centre?	Y	N
Please add any further comments			
2	Do you have any other comments on the proposals?	Y	N
Please add any further comments			

Appendix B: Consultation - Comments and responses.

1	<p>To support the extended provision and enhanced educational support, do you accept the proposed increase in the Element 3 top-up value at Flying Bull Primary Academy Alternative Provision Centre?</p>
<p>Comments - from responders</p> <p>Primary 2 With increasing numbers of children with high SEMH needs across the city, high quality provision is important. The cost to mainstream schools supporting children with SEMH needs would be more than this increase.</p> <p>Primary 3 It is not that I don't think FB don't need or would make good use of an increase in the amount of funding, but I believe that argument can be applied to all settings as we all have these very needy children in our schools that are not funded at that level. Any increase in element 3 should be looked as a whole and within the context of what is being given to a mainstream schools.</p> <p>Response to Primary 3 <i>The authority introduced an Element 3 top-up banded funding system from across all mainstream schools from 1 April 2021. The rates were increased by 3% from April 2022 in line with the mainstream budget increases. At this stage it is too soon to understand the full impact of the introduction of a banding system on both school and local authority budgets. There is no immediate proposal to review mainstream Element 3 Top-up bands, until the impact of the national SEND review is understood. But a percentage uplift will be considered when setting the annual budget, subject to overall affordability</i></p> <p>Primary 4 If I am understanding the proposal correctly, this is due to the change in staffing structure needed to facilitate this increase. It would be useful to understand the change in structure that is being put in place as this will support the understanding a little further.</p> <p>Response to Primary 4 <i>The provision will be doubling its size. There has been an increase in complexity of need and in the numbers of pupils with an EHC plan in place. There will an increase to three classes each requiring a qualified teacher plus teaching assistants. Until now there has been no dedicated leadership time allocated to the AP provision and the SENCO has covered the school and AP provision. Additional SENCO time is required to manage the provision and processes associated with EHC plans, the staff and pupils and liaise with external professionals. In addition, more time will be required for liaison with and support for parents and for transition/reintegration to mainstream school (as also highlighted in the recently published SEND and AP green paper).</i></p>	



Primary 5

I can fully understand the need to increase top up funding.
Also, it makes sense for PPG to follow the child.

Primary 6

If the element 3 top up rate (1.4.6) does increase, would we revisit this in order to maintain a fair and equitable arrangement?

Response to Primary 6

The authority reviews the Element 3 Top-up rates annually as part of the budget setting process. Any increases to Element 3 Top-up rates are subject to overall affordability and in-line with any increases to per pupil funding on mainstream school budgets. As part of the approval process, Schools Forum are consulted on any proposed increase to Element 3 Top-up rates and the Cabinet Member for Children, Families and Education takes the views of Schools Forum into consideration before making a decision on any changes.

2

Do you have any other comments on the proposals?

Comments - from responders

Primary 2

Could there be further clarification about how schools will fund the increase if the child is not entitled to the pupil premium grant?

With mainstream schools having to manage challenging children, can the time frame for the centre to be at or closer to capacity be brought forward? Mainstream schools are having to support children in very challenging circumstances and therefore the sooner children can access more appropriate support the better.

Response to Primary 2

Pupil premium

If the pupil is not entitled to pupil premium grant the placing school will not be required to provide the pupil premium funding to Flying Bull. Funding for the increase in the Element 3 Top-up, would be funded via the schools mainstream budget as it is now.

Opening date

*The expansion of the Alternative Provision at Flying Bull requires substantial building work. This started in February 2022 and is expected to be completed **by January 2023.***

Primary 3

We do accept the proposal that pupil premium funding attached to a child should follow that child and therefore go to FB if the child is there on a pro rota basis. FB would need to provide the evidence of how that was spent for school to incorporate into their PP return.



Response to Primary 3

Pupil premium grant is only payable to the alternative provision setting if the pupil is entitled to pupil premium for the period that the pupil is attending the alternative provision setting.

*Where schools are placing pupils with pupil premium, **Flying Bull** will provide the placing school with the information necessary to fulfil reporting requirements.*

Primary 4

The proposal also includes the payment of pupil premium to FBA. As present, with school budgets as they are, with increased to energy bills etc... could it be considered that the pupil premium funding allocated to the pupil pays for part of the place, rather than it being additional.

For example;

1 child in receipt of pupil premium attends FBA as a dual registered child

- Pupil premium of £2,450 is given to FBA
- School contributes £6,300

Response to Primary 4

Pupil premium is not designed to pay for running costs within schools and the same should apply for Alternative Provision. Not all pupils attending the Alternative Provision will be eligible for pupil premium but where they are it should be recognised this is due to additional needs and vulnerabilities which must be addressed.

The Flying Bull Academy business case circulated as part of the consultation sets out the income required to meet the costs associated with staffing the provision to meet the needs of the pupils, this includes pupil premium where the pupil is eligible.

Primary 5

I am pleased that number of places are being expanded.

I assume the control over the provision remains with the LA and not the academy.

Response to Primary 5

Yes, control remains with the local authority, via the Fair Access Protocol.



Appendix C - Redwood Park Academy Element 3 Top-up values 2022-23

Solent Academies Trust - Element 3 Top-up values 2022-23		
Redwood		
	Element 3 Top up rates 2021-22	Element 3 Top up rates 2022-23
	£	£
Band A	22,300	All Pupils are now on the new bands as set out below
Band B	12,550	
Band C	10,630	
Band D	9,050	
Band E	7,080	
Band F	4,360	
Band G	3,410	
Band H	1,690	
Core	4,130	4,250
Enhanced	9,540	9,830
Exceptional	19,720	20,310