DfE consultation - High needs funding formula and other reforms

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Summary

The DfE launched on 7 March its latest plans on introducing a National Funding Formula for schools. Consultation closes after the Easter break on 17 April 2016. There are two consultations being undertaken, one on a schools funding national formula and a second one on the High Needs Funding formula and other reforms, which is the subject of this Policy Briefing.

This is a “Stage 1” consultation on the principles to form the basis of the revised funding arrangements. A “Stage 2” consultation will look at the details of the reforms and, as far as this Policy Briefing is concerned, should provide indicative figures for funding Local Authorities’ (LAs) responsibilities for Special Educational Needs. There is as yet no timetable for the Stage 2 consultation. There will also be a related consultation on Early Years funding arrangements.

This briefing will be of interest to both elected members and officers who have corporate responsibility for their local authority as well as those with responsibility for school education, as well as parents, school staff and governors, local employers and those with an interest in local education provision especially local voluntary organisations with an interested in special educational provision.

Overview

Nearly all school and school-related local authority expenditure (and early years expenditure) is funded through a Government ‘specific’ grant, i.e. there is no presumption that local finance will be raised by the local authority from council tax to support this expenditure. The specific grant – the Dedicated Schools Grant (DSG) - currently allows a local authority, with the agreement of the local Schools Forum, a measure of discretion about how the money is distributed and spent locally. The Government is committed to introducing a national funding formula which is aimed to improve fairness in the distribution of this grant both between and within local authority areas, and at the same time remove the Education Services Grant (which currently supports local authority school and education work) as part of its stated commitment in the White Paper Educational Excellence Everywhere to remove local authorities from the running of schools. See Related Briefings.

There are currently three elements to the Dedicated Schools Grant, a Schools Block, which is the subject of a separate consultation on the national funding formula, an early years block, about which consultation is promised, and a High Needs Block (HN Block), the subject of this CSN Policy briefing.
The consultation involves a number of papers. The main consultation paper, which includes consultation question is High needs funding formula and other reforms Government consultation – stage one. This is supported by High needs funding consultation: technical note.

A useful description of the High Needs Block is found in School revenue funding: Current funding arrangements, pages 12 – 14. The DfE has also produced Schools and high needs funding reform: The case for change and consultation summary. The DfE states that:

_There is a problem with the current distribution of high needs funding to local authorities, and the fact that local authorities with similar characteristics are spending very different amounts. Although a degree of local variation is to be expected when assessment of need is carried out locally, some low funded local authorities have argued persuasively that the distribution of high needs funding does not support them to secure good quality special educational provision in schools, early years providers, colleges and other institutions that meets the needs of children and young people. We are also concerned that others may be spending more than is needed to achieve good outcomes. Addressing this unfairness is our priority._

Many of the DfE proposals are based on commissioned research from the ISOS partnership Research on funding for young people with special educational needs: Research report which found that High Needs funding was being directed to those LAs which spent the most and not necessarily to those with the highest needs.

The DfE are proposing the following steps:

- To introduce a national funding formula for high needs from 2017-18
- To use factors in the formula including population; health; disability; low attainment; and deprivation
- To continue to allocate funding to local authorities for high needs, but on a formula basis
- To ensure stability by retaining a significant element of funding based on what local authorities are currently spending, and capping the gains and losses of local authorities each year
- To provide financial and practical help to authorities to assist them in reshaping their provision, including capital funding for new specialist places and new special free schools

A consequence of these proposals and those on schools funding is the complete separation of the Schools Block and the High Needs (HN) Block. Currently, a local authority with the support of its Schools Forum has the ability to move funds between these two blocks often to relieve pressures on the HN block. This will not be possible under the new funding arrangements not least because money for schools will go direct to schools from the Education Funding Agency (EFA).

The role of the LA as set out in the consultation document will continue to include responsibility for services funded from the HN Block including Alternative Provision and Hospital Tuition. The White Paper _Education Excellence Everywhere_ confirms that local authorities will remain responsible for “identifying, assessing and making provision for children with special educational needs and disability” and not only those with an Education, Health and Care (EHC) plan.

The main areas of change involve how each LA’s funding for its HN Block is determined. A number of factors are proposed but past spending will continue to drive the bulk of the allocations
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To avoid disruption to arrangements for existing High Needs pupils. This is intended to be the case for 5 years; thereafter the 2-18 population and assessed needs will be stronger determinants of the funding. It is likely that LA allocations will be scaled to the size of the national HN Block budget although it is not stated whether there will be the per pupil cash protection that is used for mainstream funding.

The existing systems for determining post 16 funding are complex and involved regardless of the numbers placed in educational and training provision. In future small numbers will be dealt with through a formulaic route, as in the pre-16 system, rather than planned places.

Currently, independent special schools, but not non-maintained special schools, are outside the EFA’s planned places funding system and LA use of such places are fully funded through LA top up funding resources. In future it is proposed that these schools can opt into the EFA planned places arrangements.

Finally, to facilitate change, the DfE is to make £200m of capital available which is likely to be distributed on the basis of bids from LAs for expansion of existing schools for new capacity.

**Briefing in full**

**High Needs Funding Consultation**

The DfE commissioned report from the ISOS partnership on funding for young people with special educational needs was published in July 2015. That report made a number of recommendations which are addressed in this DfE consultation. The consultation also proposes further changes to the High Needs Block consequent upon the Children and Family Act 2014, in particular the extension of the age range to be supported by the High Needs Block to 0 – 25 years.

The consultation proposals are organised as follows:

Chapter 1: Context for the proposed changes

Chapter 2: Why changes are needed

Chapter 3: Distribution of high needs funding to local authorities

Chapter 4: Changes to the way high needs funding supports institutions

**Chapter 1: Context for the proposed changes**

The High Needs Block (HNB) forms part of the Dedicated Schools Grant (DSG) and nationally funds £5.3 bn of provision. Of this total 89% is spent on SEND, 10% on Alternative Provision (AP) and 1% on hospital tuition. The consultation paper confirms that Alternative Provision is under review ‘We are currently considering options to make AP more rigorous and will be publishing our plans in due course. In the light of this, we will keep under review how the different kinds of AP are funded to make sure that the financial arrangements support any changes in delivery’.

The HN Block is spent by local authorities in the following ways:

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• children aged 0 to 5 with SEN and disabilities, whom the local authority decides to support from its high needs budget. Some of these children may have Education and Health Care (EHC) plans;
• pupils aged 5 to 18 with high levels of SEN in schools and academies, FE colleges, special post-16 institutions or other settings which receive top-up funding from the high needs budget. Most, but not all, of these pupils have either statements of SEN or EHC plans;
• those aged 19 to 25 in FE and special post-16 institutions, who have an EHC plan and require additional support costing over £6,000;
• pupils aged 5 to 16 placed in Alternative provision (AP) by local authorities or schools.

Nationally, some of the HN Block is provided to the Education Funding Agency (EFA) to provide place funding to colleges and other post-16 institutions.

Chapter 2: Why changes are needed

The current arrangements for funding High Needs within the DSG were established in 2013 and pre date implementation of the Children and Families Act 2014 which broadened the scope of responsibilities to be funded within the HN Block. Given concerns with HN Block arrangements the DfE commissioned ISOS to investigate how the current system works and how it might might be improved.

A key finding of the ISOS report was the variation in spend between authorities and within different regions of England. No clear pattern was found between the level of assessed need and the expenditure per pupil of local authorities. The 2013 changes locked-in past patterns of historic spending creating concerns that assessment and meeting high needs was also subject to a postcode lottery. The ISOS study revealed a very considerable range in the financial response to the needs of a particular pupil: a pupil with autism might receive between £2k and £25k top-up funding.

An aspect of the current arrangements for high needs is that funding allocations to LAs have little or no transparent relation to changes in population either in terms of numbers or need. The 2015 Autumn statement protected the DSG ‘in real terms’ and included for 2016-17 an increase of £90m for additional high needs funding to reflect demographic growth.

DfE have concluded that there is a need to reform the arrangements and want to move to a formulaic approach that is transparent and fair from 2017-18. The DfE believes that a formulaic approach will also ensure that the response by all LAs to need is appropriate.

The DfE propose that the same seven principles underlying the schools national funding formula should apply to the funding arrangements for the HN Block, namely funding:

• Supports opportunity. Fundamentally the funding system should support schools and local authorities to extend opportunity to all pupils to achieve their potential
• Is fair. It should allocate funding to schools and local authorities on the basis of objective measures of the needs and characteristics of their pupils
• Is efficient. It should support efficiency within schools and local authorities, and across the system as a whole
• Gets to the frontline. It should maximise the resources available for teaching and learning and enable headteachers and local authorities to achieve value for money
• Is transparent. It should be easily understood and justified
• Is simple. It should rationalise funding streams as far as possible
• Is predictable. It should ensure schools and local authorities can manage and plan for year on year changes

There will be a period of transition to avoid disruption to the support of existing students. The DfE recognises ‘that this will be a major change for some local authorities, and will need to be carefully phased in over a number of years. ‘We believe it would be counter-productive to force change too quickly: we acknowledge the value of existing provision and the importance of avoiding disruption to pupils and students in that provision’.

Chapter 3: Distribution of high needs funding to local authorities

Local authorities are required to assess, with schools and with professional advice, and commission support for children with SEND. Therefore the DfE propose to distribute ‘the majority’ of high needs funding to LAs and not to schools and colleges, the institutions which provide the support commissioned. However, LAs are not to be funded on the number of assessments and their costs but on proxy measures for need in their areas: ‘We want to avoid creating perverse incentives to identify a higher level of need amongst children and young people than is appropriate, in order to attract more funding’. A high needs formula is proposed that is based on proxy measures.

Formula Structure

The DfE have largely taken on the ISOS recommendations and produced the following overall structure of the new formula to calculate the national HN Block:

• Basic unit of funding – national funding unit for pupils in specialist SEN provision
• Population factor – number of children aged 2 – 18 resident in area
• Health and disability factor – children not in good health, and disability living allowance, (aged 0 - 16)
• Low attainment factor – children not achieving Level 2 reading at KS2 or 5 A*-G at GCSE
• Deprivation factor – resident free school meals eligibility and IDACI
• 2016/17 spending factor – level of LA high needs spend in 2016/17

The census numbers will have an adjustment for non-resident pupils; an area cost adjustment (ACA) would be applied also. The proposed ACA is the same as the schools’ national funding formula: a choice between using a general labour market approach or a hybrid.

In calculating individual allocations LAs will receive their proportion of the national total, e.g. if an LA had 1% of FSM eligibility they would receive 1% of the national funding available for that factor. The bulk of funding is proposed to be delivered through the basic amount per pupil and 2016/17 spending. To avoid potential disruption to existing support arrangements the 2016/17 factor is to be retained for 5 years before its future is reviewed.

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The DfE anticipate that LAs will begin to review their local high needs expenditure in light of the new funding formula and a range of support to facilitate change in local provision will be made available. This will be especially important to LAs as the past facility to move funds from the schools block will no longer be available. As well as benchmarking and financial management support, the DfE will make available capital to support expansion of existing specialist provision and the creation of new provision although the latter is expected to come through the free school route. There is no detail as to how this capital will be accessed but there is an expectation that proposals for change will need local support from stakeholders, children and their families.

Alternative provision and hospital education funding
It is proposed to use population and deprivation factors to determine the funding for Alternative Provision (AP), and hospital education funding will use current spending levels for the time being.

Chapter 4: Changes to the way high needs funding supports institutions
The DfE set out a series of changes that primarily affect post-16 institutions. There are no changes for maintained special schools but there are minor changes for mainstream schools supporting children with SEND.

The DfE are ‘are not planning any fundamental changes to the way that schools are funded for their pupils with SEN and disabilities. Mainstream schools will be funded through their mainstream formula, continuing the existing requirement that they meet from their budget the costs of additional support up to £6,000 per annum for all pupils with SEN. Special school places will be funded at £10,000 per place per annum. In all cases top-up funding from the commissioning local authority will be paid to the school in respect of individual pupils with high-level SEN to reflect the costs of the additional support they need in excess of £6,000.’ The consultation document repeats the DfE presumption that ‘children and young people with SEN should be educated in mainstream provision unless … more specialist provision is specified’ in the EHC Plan. And concludes ‘The high needs funding system should ensure that resources and commissioning arrangements do not present a barrier to pupils with SEN having their needs met in mainstream rather than specialist provision’.

The DfE agree with the ISOS report that an LA calculated notional SEN budget is not helpful or relevant in future for mainstream schools. The DfE ‘think that some way of identifying how much of a school’s budget might be appropriate to spend on children with SEN could be helpful to schools as they decide on their spending priorities, but it would be better to offer schools guidance and the tools to do this for themselves, rather than specifying that the local authority has to calculate a notional SEN budget for each school’. The guidance will include suggestions on how schools can be more inclusive and on the description of their ‘local offer’, the locally published document showing what each school does to support children with SEN and disability.

In mainstream schools with units for specialist provision it is proposed that the pupils are included on the main census count and that they only receive £6k for place funding. They would also receive the local and relevant top-up funding. If LAs want to commission any vacant places, that would be possible. This seems to transfer a financial responsibility to the schools block of DSG that is currently met by the HN Block.
In terms of encouraging inclusion some LAs currently use their HN Block resources to support mainstream schools, which may take some pressure off the HN Block. The sums involved nationally are modest and the DfE proposes to retain this flexibility.

Independent Special Schools placements commissioned by LAs are wholly paid by them whereas non-maintained special schools have their place funding provided from EFA and the LA only pays a top-up. The DfE propose that independent special schools should be treated similarly. This would lessen LA costs collectively although the funds for the EFA to pay the place funding would be taken from LA allocations so there would be no additional money.

In respect of early years the DfE suggest that LAs should continue to use HN Block and early years block funding to support early years providers to make the appropriate arrangements to be inclusive.

In terms of post 16 arrangements the ISOS report and DfE both recognise that there are a number of areas for improvement so that post-16 arrangements look more like pre-16 arrangements. For providers with low numbers of students with SEN they would receive their funding through a formulaic route rather than through the planned places route. As regards FE providers, LAs would be involved in the designation of specialist units as they are in maintained schools where the FE provider has a large number of students. The DfE are undertaking more work on what the implications would be of this simplification and this will be available for the Stage 2 consultation.

Comment

The consultation on the High Needs Block and special needs is focussed on principles with little detail on financial implications. The proposals rely heavily on the recommendations of the ISOS report which many LAs will welcome as the report was generally well received.

The proposals for simplification around the commissioning processes are to be welcomed as many LAs were involved in significant work to make the processes work for little financial benefit. Indeed, many would have been tempted to overlook some of the processes given the lack of financial consequence that would follow.

The proposals to encourage mainstream schools to be inclusive should be welcomed by LAs as they try to manage the various pressures on the HN Block including those that follow from decisions made in schools. However, this may be seen as only a slight compensation for the inability to use schools block resources to support high needs costs when necessary. Concerns here could be mitigated by a formula for funding HN Block costs that LAs believe would give certainty of funding and was predictive. At this stage it is not clear that this will be the case and the introduction of a minimum funding guarantee to temper LA losses over time could be an interesting innovation in the transition process.

The formula for funding the HN Block nationally appears to capture much of what LAs would want to see and which would determine their local allocation. The key issue is that LAs want to see their future allocations grow in line with the growth in population that is being experienced by mainstream schools and in their case being funded. In fact, it appears that LA allocations will be scaled to their relative share of the national pot. If the proposal was that a share of the allocation,
at LA level, was directly driven by the numbers of students being supported this would be seen as a step forward.

The recognition of past commitments will be welcomed as will the five years of phasing but the effort required to reshape provision to provide value for money will be painful and should not be underestimated. Some current providers will need to reduce their costs of provision and some stakeholders will need to recognise that there are other ways of addressing needs and securing improved outcomes. The availability of capital for additional capacity is welcomed but there needs to be some clarity about the processes for expanding capacity and how the £200m is to be accessed.

In terms of future capacity, the consultation hints at greater involvement by LAs in the post 16 arena but also in terms potentially of how Free School proposals for new Special Schools might be developed.

As to the details of the formula proposed the factors proposed appear well argued for and include what LAs would like to see. The weighting that is provided to the various factors will be the key: this will be proposed in the Stage 2 consultation when LAs will be able to get a sense of what the implications are going to be financially.

It is right that this consultation is in parallel to the national funding formula for schools consultation as the two areas of funding and responsibility are inter-linked. There is a concern that the protection of funding offered to the schools block is not so firm here. It does feel that the HN Block will accrue what funding remains after the schools block commitments have been met. Yet, the risks attached to the financial management of the HN Block, supporting our most vulnerable young people, are far greater than in the schools block. Given the separation financially of HN Block and schools’ block the DfE do not indicate how any over-spending on the HN Block would be managed.

The transition periods in the two consultation papers vary: it would be helpful if the five years offered for LAs to adapt to the NH Block changes could be more repeated elsewhere.

If the Special Needs Funding consultation was all that was under consideration, then most LAs would welcome the majority of the proposals. However, given that it accompanies a proposal to make the HN Block stand on its own within the local DSG then consultees will want greater assurance that it is going to deliver the necessary funding for this area of risky expenditure.

The Stage 2 Consultation

The Stage 1 consultation has a six-week consultation period including the Easter holidays ending 17 April. In May there are local government elections in many parts of the country including that for London Mayor and the EU referendum in June. These events are likely to impact on the feedback and decisions flowing from the Stage 1 consultation. A July 2016 publication of Stage 2 proposals might feel optimistic given the scale of what will need to be included in terms of financial data and its implications and consultees may feel that this area needs a significant period for reflection and analysis before they are ready to respond. A July publication would present a significant issue in that the majority of stakeholders would be affected by the summer holidays thus reducing the effective period for deliberation and response. Also a six-week consultation period would end before the beginning of the Autumn Term. Stakeholders in responding to the Stage 1 consultation
may want to include comments about the timing of the Stage 2 consultation and the expectation that this would constitute a major consultation requiring a 12 week period that concludes at the end of September or even the October half term.

**External links**

DfE consultation website: [High needs funding reform](#)

DfE: [High needs funding formula and other reforms Government consultation – stage one](#)

DfE: [High needs funding consultation: technical note](#)

DfE: [Schools and high needs funding reform: The case for change and consultation summary](#)

DfE: [Research on funding for young people with special educational needs: Research report](#)

DfE: [National funding formula: equality analysis](#)

DfE: [School revenue funding: Current funding arrangements](#)

**Related briefings**

[DfE White Paper: Educational Excellence Everywhere](#) (March 2016)

[DfE Consultation - Schools national funding formula](#) (March 2016)

[Ofsted and CQC consultation: inspection of local area SEND arrangements](#) (October 2015)

[Funding for disadvantaged pupils – PAC report](#) (October 2015)

[Special Educational Needs and Disabilities Pathfinder Programme: Final Report](#) (August 2015)

[Special educational needs and disability – implementation reports](#) (January 2015)

[Education Services Grant 2015-16](#) (August 2014)

[SEN and Disability transitional arrangements – draft DfE guidance](#): (June 2014)

[SEN and Disability Reform: readiness – DfE research](#): (May 2014)

[Children and Families Act 2014 (No.2)](#) (April 2014)

[Fairer schools funding in 2015-16 – DfE consultation](#) (March 2014)

[Performance and Capability of the Education Funding Agency: NAO Report](#) (February 2014)

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