

Children, Young People and Schools Scrutiny Commission Report

Re-alignment of Special School Funding

Date: 11 March 2021

Lead Member – Education: Cllr Elly Cutkelvin

Lead Strategic Director: Martin Samuels

Useful information

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- Report version number: v2

1. Purpose

- 1.1. The purpose of this report is to provide the Children, Young People and Schools Scrutiny Commission with the opportunity to provide feedback and comment on the outcome of a consultation exercise to implement a new funding formula for the six maintained special schools in the city. It is proposed the changes will take effect from 1 April 2021.
- 1.2. An eight-week consultation exercise took place between October 2020 and November 2020 with the special schools and other stakeholders. A summary of the findings and the Council response is detailed at paragraph 4.8 and Appendix 5 & 6.
- 1.3. Feedback and comments from the Children, Young People and Schools Scrutiny Commission will be considered as part of the decision-making process.

2. Summary

- 2.1 The consultation exercise commenced on 2 October 2020 and ended on 27 November 2020 with six of the maintained special schools in the city, proposed a new funding structure. These schools provide for Special Educational Needs (SEN) children and young people with a range of complex disabilities. This includes children and young people with learning disabilities, autistic spectrum disorders, social and emotional mental health needs. The six schools included in the review are:
 - Oaklands School
 - Ellesmere College
 - Nether Hall School
 - West Gate School
 - Millgate School
 - Keyham Lodge
- 2.2 In addition to the six maintained special schools, there are other special schools (Ash Field Academy, Leicester Partnership School pupil referral unit and the Children's Hospital school) that were not included in this consultation exercise due to their different funding models. However, it is proposed that a review of the funding for these schools should commence in April 2021, with a further report being presented to the Children, Young People and Schools Scrutiny Commission and Executive for consideration in due course.
- 2.3 The key driver for the review of the special schools' funding relates directly to the inequality of the existing funding arrangements between the six schools. The review was not intended to reduce the overall funding, but to ensure it is redistributed in a fair and transparent manner. The current funding arrangements have been in place since 2014.
- 2.4 It is proposed to introduce a new system that will fund schools based on the current need of the individual pupils attending each school. This will be underpinned by a new system for banding pupils based on differing needs (6 bands, appendix 1). Funding will stay with the child and be reviewed on an annual basis.
- 2.5 The proposal to review the funding rates, and the principles contained within the rates review, which seeks to address the inequity of funding, has been supported by the special schools' headteacher network CLASS, with other letters of support being received from both individual schools and the Schools Forum. Appendix 7.

- 2.6 A consultation exercise was undertaken with all six schools and a wide range of stakeholders as detailed at Appendix 10. A summary of the findings and the Council's responses can be found at paragraph 4.8 and full details at Appendix 5 & 6.
- 2.7 Whilst four of the special schools will benefit from the proposal, two will see their funding reduced. Work is currently in progress with the schools to better understand the reasons for any higher costs. If the higher costs cannot be adequately justified, then officers will work with the schools to develop transitional plans in the coming months to reduce the spend over the next few years.
- 2.8 It is proposed that the changes will take effect from 1 April 2021. However, any reduction in funding rates for special schools must be agreed in advance with the Department for Education (DfE). Therefore, the two schools potentially affected by the proposals will not see their funding reduced until further consideration is given to their costs and the DfE has given approval.
- 2.9 A glossary of the terms relating to Special Educational Needs within this report is detailed in Appendix 12.

3. Recommendations

- 3.1 The Children, Young People and Schools Scrutiny Commission are recommended to:
- a) Provide feedback/comment on the proposed funding changes to the individual special school as summarised at paragraph 4.8.
 - b) To note the responses to the consultation as detailed at Appendix 5 & 6 and to provide feedback/comment.
 - c) To note the proposed funding rates as outlined in paragraphs 4.9 and to provide feedback/comment.
 - d) To note the process of further discussions with the schools where their funding is to be reduced and to provide feedback/comments.

4. Report/Background Information

- 4.1 The funding for the special schools has not been reviewed since 2014 and was undertaken in recognition of the inequality in the current arrangements, and as a means of ensuring funding is linked directly to the individual child's or young person's needs, rather than the school they happen to attend.
- 4.2 The Council has worked closely with the six special schools to develop the new funding proposals, as detailed at Appendix 2.
- 4.3 The proposed new system will fund teaching costs based on the needs of each pupil. A new system for banding pupils, using 6-bands to reflect differing needs (see Appendix 1), has been supported by the special schools. Based on the agreed model, each school banded their existing pupil cohort and it's on this basis that funding rates for teaching and teaching support costs have been calculated. This will be subject to an annual review process and adjusted yearly. All other costs of the school to be funded (including leadership teams, administration staff, premises staff and all other running costs) are calculated on a fixed rate per pupil and using the 2019/20 actual expenditure (also

Appendix 2). Overall, the proposed funding arrangements will redistribute the existing funding.

- 4.4 The proposed revised funding rates are shown in Appendix 2, prior to inflationary increases applicable from 1 April 2021, and other mitigating adjustments as outlined in paragraph 4.8. These proposed revised rates compare favourably with funding rates in other Local Authorities, see Appendix 3a and 3b.
- 4.5 A formal consultation exercise was undertaken between 2 October 2020 and 27 November 2020, to introduce and seek comment on proposals to change the Special School funding formula for the six Leicester City maintained special schools: Ellesmere College, Keyham Lodge, Millgate School, Nether Hall School, Oaklands School and West Gate School.

Consultation approach

- 4.6 The consultation exercise was launched on 2 October 2020 with a meeting of the six special school head teachers, followed by a joint meeting of school governors, and then individual meetings with each school's full governing body. Wider engagement took place through the Parent Carer Forum, Special Educational Needs Disabilities Information and Support Service, the Big Mouth Forum, and the Schools Forum. An on-line consultation document and questionnaire was used to facilitate responses from interested parties.

The consultation questionnaire is detailed at Appendix 9.

Consultation response

- 4.7 A list of all the main issues and concerns raised by special schools and Schools Forum is included in Appendix 5, together with details of the Council's response.

4.8 In summary:

- 1. **Oaklands School** – 5% proposed increase to their current funding rate. The school is in favour of the proposal and was pleased with the principles adopted in formulating the revised funding rates, although they remain concerned about the overall level of funding.

The Council's response: We recommend implementing the revised rate from 1 April 2021.

- 2. **Ellesmere College** – 16% proposed increase to their current rate. The college is in favour of the proposal and was pleased with the principles adopted, particularly the recognition of funding following the pupil rather than the institution.

The Council's response: We recommend implementing the revised rate from 1 April 2021.

- 3. **Nether Hall School** – 4% proposed increase to their current funding rate. The school was generally in favour of the proposal. However, the school raised the issue of the additional medical and health support costs they incur for their profound and multiple learning disability pupils.

The Council's response: We recommend implementing the revised rate from 1 April 2021.

Post consultation we are working with the school to understand the level of additional needs for their pupils, once the costs are fully understood, and if adequately justified,

we will look to adjust their rate. Changes can be applied retrospectively from 1 April 2021.

4. **West Gate School** – 7% proposed increase to their current funding rate. Whilst the school is in favour of the principles adopted in the proposals, they are of the opinion that the proposed increased rate is insufficient. The school has an existing deficit, and staffing ratios for teaching assistants are significantly higher when compared to other similar schools. They are willing to work with the Council and have already identified areas where they may be able to make reductions.

The Council's response: We recommend implementing the revised rate from 1 April 2021.

Post consultation we are working with the school to understand the level of additional needs for their pupils, once the costs are fully understood, and if adequately justified, we will look to adjust their rate. Changes can be applied retrospectively from 1 April 2021.

5. **Millgate School** – 22% proposed reduction to their current rate.

The proposed reduction includes £400k (8%) for the provision of overnight onsite respite support, which the Council will review as a separate cost pressure. The school has provided this service as a means of supporting up to 8 individual pupils at any one time to have overnight stays to prevent family/carer breakdown. In terms of OFSTED the school is registered as a boarding school and therefore can provide overnight stays. With this adjustment made, the proposed reduction for the main educational element would be 14%.

The school is strongly of the opinion that the proposed rate is insufficient. However, the school spends more on senior staff, when compared to other special schools and work is needed to understand the reasons for the differential.

The Council's response: We recommend implementing the revised 14% educational element rate from 1 April 2021.

Post consultation we are working with the school to understand the level of additional needs for their pupils, once the costs are fully understood, and if adequately justified, we will look to adjust their rate. Changes can be applied retrospectively from 1 April 2021.

Regarding the onsite overnight respite accommodation, the Council needs a better understanding of the purpose and access arrangements to ensure there is transparency and accountability around its use. Work will commence with the school to do this with a full commissioning review to take place 2021/22 to determine if this service is still required. Full funding for this element (£400K/ 8%) will remain in place until that process is complete.

6. **Keyham Lodge** – 8% proposed reduction to their current funding rate.

The school is not in favour of the proposal. In the same way as Millgate, the school spends more on senior staff, when compared to other special schools and work is needed to understand the reasons for the differential.

The Council's response: We recommend implementing the revised rate from 1 April 2021.

Post consultation we are working with the school to understand the level of additional needs for their pupils, once the costs are fully understood, and if adequately justified, we will look to adjust their rate. Changes can be applied retrospectively from 1 April 2021.

7. **Schools Forum** – felt that the realignment of funds was overdue and that on balance was a fairer system as funding would follow need, not institution. Forum supported the review of the High Needs Block expenditure in general. They were also keen that the Council apply a system of moderating the banding of pupils by schools to ensure parity.

Finally, whilst supporting the proposals, they wanted to ensure that there was a transition plan in place for those schools that are losing funding.

The Council's response: The transition arrangements are discussed at paragraph 4.9(g)

8. **Other general responses**

A total of 455 questionnaires were completed and returned.

In summary the majority of head teachers and governors were in favour of using the proposed new 6-band system for identifying pupil teaching needs. For teachers, the split was 48% in favour versus 37% not, with the remainder indifferent. Non-teaching school staff were evenly split.

Similarly, the majority of head teachers and governors supported the use of standardised funding for non-teaching related costs. However, the majority of teachers and non-teaching staff were against this approach.

The Council's response: we are pleased that leadership and governors are in overall favour of the principles of the funding proposals.

Proposed way forward

- 4.9 The decision to increase unit funding rates for special schools is in the gift of the Council. Following the feedback from the consultation and subject to the following, it is recommended the Executive Lead agrees to the proposed rates outlined in 4.8 and that these should be implemented from 1 April for Oaklands School, Ellesmere College, Nether Hall School and West Gate School. In addition, it is proposed:
 - a) The additional funding per pupil for medical and health support costs is reviewed with Nether Hall School and added retrospectively if appropriate with effect from 1 April 2021.
 - b) Work to continue with West Gate School to review their current support costs and that following this, to determine whether any further adjustments to the rate should apply and be retrospectively applied with effect from 1 April 2021.
 - c) Work to continue with Millgate School to understand their costs associated with the senior leadership structure and to suggest alternative options to reduce the differential, when compared to the other schools. Any changes to the proposed reductions will be added retrospectively if appropriate with effect from 1 April 2021. Also, to work with the school to understand the benefits of the onsite respite provided by the school and to agree a separate funding mechanism, pending the outcome of a commissioning review.

- d) Work to continue with Keyham Lodge to understand the costs associated with the senior leadership structure and to suggest alternative options to reduce the differential when compared to the other schools. Any changes to the proposed reductions will be added retrospectively if appropriate with effect from 1 April 2021.
- e) In regards to Millgate Schools respite facility, work will commence with the school to do a full commissioning review to take place 2021/22 which will determine if this service is still required. Full funding for this element (£400K/ 8%) will remain in place until that process is complete.
- f) Inflationary adjustments applicable are added to the proposed rates which were baselined against 2019/20 costs.
- g) To agree a transitions plan for both Keyham Lodge and Millgate School to reduce costs in line with the proposed funding rates as detailed in Appendix 2 over a period of time, if their additional costs are not adequately justified.

4.10 Nationally, the unit funding rates for special schools cannot be reduced without approval from the Department for Education (DfE). Therefore, approval will need to be sought from the Executive Lead to submit a request to the DfE to reduce unit funding for both Millgate School and Keyham Lodge to the proposed rate, subject to the ongoing work with the schools as detailed at points (c) and (d) above. It is also recommended that until we gain approval from the DfE, existing funding rates should apply from 1 April 2021 for both schools.

5. Details of Scrutiny

- 5.1 Principles of the consultation were presented and discussed at the Children and Young Peoples Scrutiny Commission on 29th September 2020
- 5.2 Correspondence was sent to all elected members, advising them of the consultation exercise in October 2020.
- 5.3 The consultation process included extensive information relating to the proposal as detailed at Appendix 9 & 10 and members of the Children, Young People and Schools Scrutiny Commission are asked to provide feedback and comments, which will be considered prior to any decision.

6. Financial, legal and other implications

6.1 Financial Implications

Pressure on the high needs budget is a recognized national issue, which is well documented across local government. The pressure on the Dedicated Schools Grant (DSG) has led to more and larger overspends in recent years with numbers of children with education and health care (EHC) plans continuing to increase nationally at around 11% pa

Locally, numbers of pupils with EHC plans have increased at an average of 12.8% over the last 5 years which has led to significant pressures on the LA's High Needs Block (HNB) in recent times. The forecast over-spend, compared to the HNB allocation is £7.1m in 2020/21 and forecast to be £4.3m in 2021/22. Whilst the DfE have provided additional funding for the HNB in 2020/21 and 2021/22, the increases have not kept pace with the continued growth in demand.

It is forecast that DSG reserve account will be in a cumulative deficit position of £2.3m at the end of 2020/21, which is due to the pressures on the HNB. Such cumulative deficits cannot be funded by the council's own resources, however the DfE expect the LA to develop and implement an action plan with a view to eliminating the deficit.

In response to the pressures on the HNB and the cumulative deficits the LA will be reviewing all expenditure, with the first two strands of the review covering special school funding and the funding of SEN within mainstream schools, the two single largest areas of expenditure. This report and consultation deals with the former. The issue of SEN funding in mainstream schools will be the subject of a subsequent report.

As explained in this report the proposed revised special school rates re-distributes funding on a more equitable basis, it does not result in a reduction in the overall funding to the 6 schools. In other words, the intention was that these proposals were to be cost neutral in terms of total funding. However, to the extent that any individual school's proposed funding reductions are not implemented, this will increase the local authorities funding requirements and increase the deficit incurred within the HNB.

Martin Judson, Head of Finance

6.2 Legal implications

The proposed funding rates represent an increase in funding for 4 of the city special schools. The LA can implement these increases if the proposal is approved.

However, the proposals represent a reduction in funding for 2 of the city special schools and therefore due to the minimum funding guarantee, the only way that the new funding rates can be applied for these 2 schools is if the LA makes an application to the DfE. In the circumstances, once the further consultation outlined at 4.9 has taken place, in order to proceed with the reduction in rates for Millgate School and Keyham Lodge, an application would have to be made to the DfE.

There have been a number of recent legal challenges to local authorities seeking to make savings within the area of Special Educational Needs. When taking any decisions, the Council needs to be mindful of the welfare of the children and young people who may be affected and not simply seeking to address financial concerns. It is noted that the purpose of the revised funding rates is not to achieve savings but to re-distribute funding between schools to ensure fairness and transparency. However, if fully implemented, the proposals do result in a reduction for 2 schools and the impact of this should be considered.

Julia Slipper, Principal Lawyer, Education & Employment. Tel 0116 454 6855

6.3 Climate Change and Carbon Reduction implications

Not applicable to this report.

6.4 Equalities Implications

Under the Equality Act 2010, public authorities (including the local authority and schools), have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

The proposal seeks approval to implement a new funding formula for special schools in the city. As the proposal is focused on funding for special schools, the protected characteristic of disability is highly relevant to the proposal however other protected characteristics should also be considered to ensure that there are no unintended disproportionate impacts, or if disproportionate impacts are identified, they are appropriately mitigated. The proposals have the potential to impact pupils, non-teaching staff and teaching staff.

An equality impact assessment is being carried out and should influence decision making from an early stage and throughout the decision-making process in order that the proposals can be amended to address any equalities impacts and mitigating actions identified to lessen or remove potential disproportionate negative impacts on any protected characteristic group.

The equality impact assessment is an iterative document which should be revisited throughout the decision-making process and should also take into account any consultation findings. The possible or actual impacts of continuing to provide funding in the same way as it is provided now should also be considered as a part of the impact assessment.

Schools are also subject to the PSED and have responsibilities to prevent discrimination against and ensure the fair treatment of all children and young people with disabilities. In addition, employers have duties under the Equality Act 2010 which certain schools may reflect upon in terms of the potential need to reduce their staffing costs should the proposals be agreed.

The consultation findings on the proposal will support in collating the information required to enable decision makers in paying due regard to the PSED.

Surinder Singh, Equalities Officer Tel 37 4148

6.5 Other Implications

None

7. Background information and other papers:

Summary of appendices:

Appendix 1	Special school banding descriptors
Appendix 2	Original proposed unit funding rates and resultant single weighted average funding rate per school and comparison to current rate
Appendix 3a	Other LA rates by type of need compared to 'best fit' LCC proposed rates by school
Appendix 3b	LCC proposed rates by school compared against other LA mid-point comparator rates
Appendix 4	Comparison of 2019/20 total funding by school with total funding using proposed rates
Appendix 5	Summary of consultation responses and LA response
Appendix 6	Qualitative and Quantitative consultation responses received

Appendix 6a	Head teacher, governor and parent representations
Appendix 7	Statement of support from CLASS
Appendix 8	Frequently asked questions
Appendix 9	Consultation communications plan
Appendix 10	Details of briefings, emails communicating the consultation
Appendix 11	Equality Impact Assessment
Appendix 12	Glossary of Terms

8. Is this a private report

No

9. Is this a “key decision”?

No