

Children, Young People & Education Scrutiny Commission Meeting

Review of Mainstream School Funding for Special Education Needs & Disabilities

Date: 19 October 2021

Lead Member: Councillor Elly Cutkelvin
Strategic Director: Martin Samuels

Useful information

- Ward(s) affected: N/A
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Summary

- 1.1 The purpose of this report is to provide the Children, Young People & Education Scrutiny Commission members with an update on the engagement process, consultation exercise and timetable for the review of mainstream school funding for children and young people with Special Education Needs and Disabilities (SEND).
- 1.2 A presentation was given at a previous Scrutiny Commission Meeting on 22 June 2021, which provided the background and rationale for undertaking a review of the funding arrangements for SEND pupils in mainstream settings. The review seeks to address the inequalities of the current funding arrangements, and to seek a fairer and transparent method of allocating the monies to mainstream schools to support SEND pupils.
- 1.3 The current method of allocating the monies, which is paid from the High Needs Block (HNB) grant funded by the Department for Education has been in place since 2014. However, it is recognised that the current funding mechanism creates an inequity in the distribution of funding.
- 1.4 We were informed by the Government in 2021 that Local Authorities are no longer allowed to support their overspends from their general reserves, and therefore we are required to remain within the level of grant awarded by government.
- 1.5 After an extensive engagement we launched the formal consultation on 8 September 2021 which is due to close on 8 December 2021.

2. Recommended actions/decision

2.1 The Scrutiny Commission is recommended to:

- Note the outcome of the engagement undertaken March – June 2021
- Note the current consultation plan and process in place – see appendix 1
- Receive a further report outlining the outcome and recommendations on proposed changes for funding SEND pupils in mainstream schools from the consultation in March 2022.

Scrutiny / stakeholder engagement

3.1 The following stakeholders will be briefed during the proposed consultation:

- Lead Members July 2021
- City Mayor/Executive Ward Councillors/ Scrutiny Aug 2021/Jan 2022

- LCC/SCE Staff Aug 2021/Jan 2022
- Unions Sept 2021/January 2022
- Schools Forum Sept 2021
- LPP/EIP Sept 2021
- All Schools Sept 2021
- School Governors Sept 2021/Jan 2022
- PCF Sept 2021
- SENDIASS Sept 2021
- SEND Improvement Board parents/carers July onwards
- BMF Sept 2021
- Children and Young People with SEND Sept 2021
- Parents/carers of Special School Pupils Sept 2021
- Health – CCG Sept 2021
- SENDIB Aug 2021 – April 2022
- SENCo Network Sept 2021 – April 2022

4. Background /Engagement

4.1 Between March and July 2021, a 12-week engagement process commenced to discuss the issues with the mainstream schools and other key stakeholders and to seek feedback that would help to shape and inform the formal consultation exercise.

4.2 During the engagement process the following funding methodologies options were shared with schools, parents and key stakeholders:

- Option 1- continue with the existing funding method of both a per pupil-based top up payment and an additional SEND top up payment.
- Options 2- maintain the additional SEND top up payment but at a lower level.
- Option 3 - provide schools with enhanced per pupil top up payments based on pupil need and remove the additional SEND top up payment altogether.

4.3 The output of the engagement process clearly indicated that schools wanted a system that was fair, transparent and child centred.

- All respondents believed that funding should be child centric with the focus being on providing support provisions based on the child's needs.
- 94% of respondents felt that funding should be distributed fairly, and whilst no suggestions were made to alternative funding methods
- 38% of schools felt that they would struggle without top up funding.
- All respondents wanted more transparency of the application process and more parent teacher involvement when devising the plans.
- 67% of schools felt more training and support was needed to complete the application form
- 35% requesting a more streamlined and efficient application process.

5. Consultation Process

5.1 Based on the engagement feedback, the challenges to the existing High Needs Block (HNB) budget and the need to ensure that funding is distributed equitably across all schools, it was proposed to formally consult on option 3.

5.2 This option will:

- remove the additional SEND top up payment of funding and provide schools with enhanced per pupil top up payments that are based entirely upon children and young people's needs.
- provide support to schools based on the actual number of high needs pupils in the schools.

5.3 The proposed changes are not intended to reduce the overall level of funding available for SEND pupils within the mainstream schools, but the proposed approach has several benefits, including:

- Addresses the inequities and unsustainability of the current system
- Allows the Local Authority to increase pupil-based funding
- Links funding directly to individual pupils and their needs
- Enables increased accountability to demonstrate the impact of funding on pupil outcomes.

5.4 We recognise it is likely that the proposed changes will present a challenge to some schools, the Council's SEND Inclusion Quality Manager and two SEND teachers, will work closely with schools to support them, to look at their existing arrangements and to suggest more efficient ways of working.

5.5 A further mitigation proposed will be to introduce the new funding system from the new academic year starting September 2022 rather than at the start of the new financial year April 2022. This will allow schools more time to work with the new LA team to adjust to the proposed changes. Moreover, it will reduce the potential financial impact of those schools that would, on a like for like basis, lose funding in the financial year April 2022 to March 2023.

5.6 A formal consultation process was launched via the Citizens Portal on 8 September 2022 and is scheduled to close on 8 December 2022.

consultations.leicester.gov.uk/sec/send-funding-review

5.7 To ensure all stakeholders are fully consulted an outline Communications Plan has been developed with a focus on creating dialogue amongst key stakeholder groups and providing opportunities for feedback and acceptance see Appendix 1.

5.8 The key messages of the consultation are:

- A pupil-centred approach to make sure children with SEND support receive well planned targeted interventions
- New Quality Improvement service will support mainstream settings in the use of the BERA (Best Endeavours and Reasonable Adjustments) framework and use of quality first teaching

- Training and Best Practice Models to be available to support schools manage the transition to the new funding model
- The proposal will ensure the best possible outcomes for our children by ensuring that there is equality and parity of funding for all pupils in mainstream provision
- The new model will utilise the existing High Needs Block funding more effectively to meet needs and improve outcomes for SEND pupils.

6. Financial, legal, equalities, climate emergency and other implications

6.1 Financial implications

6.1.1

6.2 Legal implications

Part 3 of the Children and Families Act 2014 sets out the duties placed on Local Authorities for children and young people in England with SEND.

High Needs Block (HNB) funding provides the funding for support packages for an individual with special educational needs in a range of settings. The purpose of the HNB is to ensure equality and equity of opportunity for all children and young people irrespective of their need. Banding is a way for local authorities to allocate levels of top-up funding for securing special educational provision for those children and young people with SEND. These are not statutory arrangements and each local authority will have its own mechanism for allocating funding.

There is a statutory requirement for the Council to consult with Schools Forum when making important decisions around schools and funding.

This report seeks approval to commence a formal process of consultation with the stakeholders set out in the report. Those engaged in the consultation should be invited to comment on the proposals and put forward alternative suggestions.

The Public Sector Equality Duty requires the Council to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. The proposed consultation should be used to help identify where revision to the proposal might be needed to take account of the impact to individual school budgets and/or pupils and to ensure continued equality of opportunity for those affected.

The results of the consultation should be analysed, prior to any final decision being made, to ensure that any decision making is lawful, follows a fair process and is reasonable. It is recommended that further legal advice is taken as the proposals are developed.

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

6.3 Equality implications

Under the Equality Act 2010 (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 to consult formally with mainstream schools to remove the additional SEND top up element of the funding and provide schools with enhanced per pupil payments that are only based upon children and young people's needs has been agreed.

The proposed funding arrangements are not intended to reduce the overall level of funding available for high needs pupils within the mainstream schools. However, there will be a significant change in the distribution of funding to schools under this proposed fairer funding methodology.

As the proposal is focused on SEND funding for mainstream 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.

It is important that any funding reforms are applied to all schools consistently in supporting opportunity for all children, irrespective of their background, ability, or need.

The public sector equality duty, so far as it concerns age, does not apply to the exercise of a function relating to the provision of education to pupils in schools, including those pupils over the age of 18.

The proposals have the potential to impact pupils, non-teaching staff and teaching staff. In order to demonstrate that the consideration of equalities impacts has been taken into account in the development of the proposals and as an integral part of the decision-making process, an Equalities Impact Assessment is underway and will be updated to reflect the outcomes of the informal engagement which has taken place with schools, parents and other stakeholders. The possible or actual impacts of continuing to provide funding in the same way as it is provided has been considered as part of the impact assessment.

As option 3 to consult formally from September 2021 with schools has been agreed, we need to ensure any consultation/engagement process is fair, accessible and proportionate.

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

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

Any recruitment should be carried out in line with LCC recruitment policies.

Sukhi Biring, Equalities Officer Tel 37 4175

Appendices: Appendix 1. Review Timetable

Appendix 1. Review Timetable

Audience	Channel	Approach	Date
Lead Member	LMB and planned meetings	<ul style="list-style-type: none"> • Initial and ongoing progress checks • Formal report with proposed approach to consultation • Executive Briefing for use by Lead Member • Update report following consultation activity to describe any changes to consultation 	May onwards October 2022 January 2022 March 2022
City Mayor / Executive Ward Councillors	Briefing email	<ul style="list-style-type: none"> • Formal report with proposed approach to consultation • LMB note – members bulletin • Update report following consultation activity to describe any changes to consultation 	Aug 2021 January 2022
LCC and SCE Staff	Briefing email/ meeting attendance	SCE newsletter outlining consultation To be briefed by SEND and Social Care Management on consultation	Sept 2021
Unions	Meeting & follow- up email	<ul style="list-style-type: none"> • Formal email confirming consultation launch • Briefings to outline consultation proposal, timelines, and implications • Outcomes and recommendations following decision by Lead Member 	Sept 2021 January 2022
Schools Forum	Meeting & follow- up email Ongoing meetings	<ul style="list-style-type: none"> • Briefing/awareness • Formal email confirming consultation launch • Briefings to outline consultation proposal, timelines, and implications • Outcomes and recommendations following decision by Lead Member 	Sept 8 th /Nov
Leicester Primary Partnership and Education Improvement Partnership	Meeting & follow- up emails Ongoing meetings	<ul style="list-style-type: none"> • Formal email confirming consultation launch • Briefings to outline consultation proposal, timelines, and implications • Outcomes and recommendations following decision by Lead Member 	Sept 2021

Audience	Channel	Approach	Date
All Schools	Direct email – follow-up meeting with identified schools Ongoing KiT meetings	<ul style="list-style-type: none"> • Formal email confirming consultation launch • E-briefings to outline consultation proposal, timelines, and implications • PEO Keeping in Touch meetings (occur weekly) • Outcomes and recommendations following decision by Lead Member • Schools Extranet 	Sept 2021
School Governors	Email and virtual meeting as required Termly Chair of Governors briefing	<ul style="list-style-type: none"> • Formal email confirming consultation launch • Potentially deliver governor training session on budget expectation and use of funds for SEND provision • Outcomes and recommendations following decision by Lead Member 	Sept 2021 January 2022
Leicester City Parent Carer Forum	Meeting & follow- up email	<ul style="list-style-type: none"> • Update and launch of formal consultation • Attendance at PCF meeting – Use easy read presentation and resources for parents to understand proposals 	October 2021
SENDIASS	Meeting & follow- up email	<ul style="list-style-type: none"> • Formal meeting at launch of consultation. • Briefing information to be shared on social media website • Outcomes and recommendations following decision by Lead Member 	Sept 2021
SEND Improvement Board members/partners	SENDIB agenda	<ul style="list-style-type: none"> • Progress update from SEND service 	July onwards
Children and Young People with SEND (BMF)	Virtual meeting	Attendance at virtual meetings prepare easy read presentations	Sept 2021
Parents/ Carers of mainstream pupils (including those from EHCP audits with contact details given)	Letter via schools	<ul style="list-style-type: none"> • Communications via schools confirming plans, consultation launch and next steps 	Sept 2021

Audience	Channel	Approach	Date
Health – CCG – via SENDIB and key contacts	Direct email	Launch of formal consultation Outcomes and recommendations following decision by Lead Member	Sept 2021
SEND Services	Meeting & follow- up email	<ul style="list-style-type: none"> Formal meeting at launch of consultation. Briefing information to be shared on social media website Outcomes and recommendations following decision by Lead Member	Sept 2021 January 2021
SENCo Network	Meeting & follow- up email	<ul style="list-style-type: none"> Formal meeting at launch of consultation. Briefing information to be shared on social media website Outcomes and recommendations shared following decision by Lead Member Confirmation email for Go Live 	Sept 2021 January 2021 April 2021
MAT CEO		<ul style="list-style-type: none"> Meetings 	Sept 2021
Business Managers	Meeting & follow- up email	<ul style="list-style-type: none"> Formal meeting at launch of consultation. Briefing information to be shared on social media website Outcomes and recommendations shared following decision by Lead Member Confirmation email for Go Live 	Sept 2021 January 2021 April 2021
Local Offer	Local offer	<ul style="list-style-type: none"> Briefing information to be shared on Local offer 	Sept 2021

