

SCHOOLS FORUM

Meeting date: 11th March 2021

**From: Daniel Barton
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NOTIONAL SEN

1.0 EXECUTIVE SUMMARY

- 1.1** *This report informs the Schools forum that local authority officers have reviewed the issue of notional SEN funding within mainstream schools as agreed at the last Schools Forum meeting.*
- 1.2** *On 11th February the joint Budget and SEN working group considered a number of options and were asked to put forward other options and ideas to mitigate the impact of restoring the notional SEN threshold to £6,000 which was estimated to be circa £2.000m. The group formally commissioned modelling the removal of the Targeted SEN.*
- 1.3** *Initial modelling has been completed and the Schools Forum are asked to provide a view on whether schools should be consulted on this option and if so, consider if transitional protection should be made available to schools losing funding or propose further alternative options for modelling ahead of a consultation with all schools.*

2.0 STRATEGIC PLANNING AND EQUALITY IMPLICATIONS

- 2.1** Ensuring that Cumbrian schools are funded appropriately is supportive of the Council Plan outcome that 'People in Cumbria are healthy and safe'.

3.0 RECOMMENDATION

- 3.1** The Schools Forum are recommended to note the contents of this paper and provide a view on the option to remove the Targeted SEN and restore the notional SEN threshold to £6,000 and if so, whether transitional protection funding should be made available or suggest further options for modelling.

4.0 BACKGROUND

- 4.1** Notional SEN is the amount of a mainstream school's budget share that should be used to meet low cost high incidence SEND provision. In Cumbria

the calculation is based on 5% AWPU allocation, 50% deprivation allocation and 100% low prior attainment allocation.

- 4.2** Historically, Cumbria required schools to fund the first £3,000 of support for high needs pupils using their notional SEN allocation with any costs over £3,000 funded through top ups. In 2013/14 DfE strongly recommended that local authorities delegated sufficient funding for all schools to be able to fund support for high needs pupils up to £6,000. However, at its meeting on 8 November 2012 Cabinet decided, following recommendation from Schools Forum, not to implement the DfE's recommendation and to continue to require schools to fund the first £3,000. The rationale was that in doing so High Needs funding followed the child rather than being allocated across all schools regardless of the number of high needs pupils within those schools.
- 4.3** From 2014/15 DfE made it mandatory for schools to fund the first £6,000 per high needs pupil. In recognition of the additional cost to schools of doing this, £3.500m was transferred from the High Needs block to the Schools block. DfE rules required that the additional £3.500m was allocated to schools on the basis of the school funding formula rather than on numbers of SEN pupils meaning that schools with few or no SEN pupils received funding even though they had little or no additional costs of SEN provision whilst schools with high numbers of SEN pupils received funding less than the additional cost of their SEN provision. To mitigate this DfE allowed local authorities to have a central fund to allocate to schools with a higher proportion of SEN pupils and Cabinet therefore agreed in October 2013 following Schools Forum recommendation that £0.300m of the £3.500m transferred from the High Needs block would be retained as a central fund known as targeted SEN.
- 4.4** The targeted SEN was allocated to schools where more than 3% of pupils had a SEN statement (now EHCP) on the basis of £3,000 for each pupil above the 3% threshold. Subsequently the central fund was increased to £0.870m and the threshold reduced to 2% of pupils on role.

HIGH NEEDS DEFICIT

- 4.5** Prior to 2014/15 the DSG High Needs block consistently reported small underspends. From September 2013 the local authority took on responsibility for funding post 16 and post 19 high needs students; at the point of transfer it was recognised that funding provided was insufficient and although the Education Funding Agency provided additional funding there was still a shortfall of £0.750m.
- 4.6** In September 2014 the Children and Families Act came into force, introducing a new approach to supporting children with SEND and led to an unprecedented rise in the number of requests for statutory assessment leading to an EHCP. This, along with existing pressure on post 16 and post 19 budgets and an increased need to purchase provision from independent special schools to support the needs of pupils that could not be met within Council provision, resulted in a deficit on the High Needs block in 2014/15.

HIGH NEEDS RECOVERY PLAN

- 4.7** During 2016 Schools Forum considered a number of options to manage demand and control the resulting deficit on the High Needs Block. In

December 2016 Cabinet agreed the following recommendations from the Schools Forum:

- To reduce the hourly top up rate in EHCPs from £750 to £650 to reflect the actual cost of a teaching assistant;
- To transfer 2 hours of EHCP top ups to schools.

4.8 It was estimated that these 2 measures would reduce pressure on the High Needs block by £2.780m.

4.9 When schools were required to fund the first £6,000 of support this was based on an hourly rate of £750 and meant that schools had to provide 8 hours of support from their own budgets. The impact of reducing the hourly rate from £750 to £650 was that schools effectively had to fund 9.2 hours from their own budgets. Furthermore, the agreement that an additional 2 hours would be contributed from schools' own delegated budgets effectively meant that schools had to fund the first 11 hours of support or £7,150.

EHCP NUMBERS AND BUDGET POSITION

4.10 Since 2014 the numbers of pupils with EHCPs has increased dramatically. As at December 2020 there are 3,926 pupils with an EHCP, an increase of 1,134 since January 2018. The value of targeted SEN paid to schools has also increased from a total of £0.990m in 2018/19 to £1.428m in 2020/21 with a further increase expected in 2021/22. Of the 307 mainstream schools 36 have no pupils with an EHCP, and of those 18 have had no pupils with EHCPs in the last 3 years.

4.11 Between 2017/18 and 2019/20 the number of schools in deficit has increased from 61 to 72 and the overall net balance on school budgets has decreased from a surplus of (£1.686m) in 2017/18 to a deficit of £0.145m in 2019/20.

4.12 The increasing levels of demand mean that whilst a number of savings and spend to save initiatives are being delivered through the High Needs Recovery Plan, the deficit on the High Needs block has increased from £5.533m as at 31 March 2019 to a forecast £15.131m as at 31 March 2021.

DFE GUIDANCE AND LEGAL POSITION

4.13 The High Needs Funding Operational Guidance for 2021/22 states that:

Where individual pupils require additional support that costs more than £6,000, the excess should be met by top-up funding associated with the individual pupil. Top-up funding rates are for local authorities to determine, by agreement with schools and academies.

The SEN Code of Practice states that:

Schools are not expected to meet the full costs of more expensive special educational provision from their core funding. They are expected to provide additional support which costs up to a nationally prescribed threshold per pupil per year. The responsible local authority, usually the authority where the child or young person lives, should provide additional top-up funding where the cost of the special educational provision required to meet the needs of an individual pupil exceeds the nationally prescribed threshold.

Legal advice is that whilst the local authority has discretion in relation to the top up rates we pay and how those are allocated, we do not have discretion as to the threshold that triggers access to these top up rates.

NEXT STEPS

- 4.14** Based on the information above the Local Authority is committed to reinstating the position where schools are responsible for the first £6,000 of support for high needs pupils. Modelling has been undertaken to identify the cost of this and, following the final SEN Number being confirmed by the SEN team, based on pupils with EHCPs in mainstream schools in 2021/22 the full year additional cost is estimated at circa £2.000m.
- 4.15** An increase of c£2.000m of expenditure against the High Needs block is not sustainable and therefore work is needed to identify and quantify potential mitigations. Initial options include:
- Removal of targeted SEN;
 - Amending criteria for accessing targeted SEN for example by increasing the percentage of pupils above which targeted SEN is paid, and/or reducing the amount paid per pupil;
 - Review of top up bands.
- 4.16** The joint Budget and SEN working group considered these options on 11th February and formally commissioned modelling of the removal of Targeted SEN.
- 4.17** Initial modelling of the full year impact indicates that 93 schools would have a reduction of funding, a total of £0.603m with 25 of these schools losing more than 10% of their combined EHCP top-up and Targeted SEN funding. Thirty-two schools would be unaffected by the change, and 182 would gain funding, totalling £0.678m. More work is needed to finalise the modelling and further detail at school level will be provided at the next Budget Working Group.
- 4.18** It is proposed that, if Schools Forum make a recommendation to the local authority that this option is put forward for consultation with schools, transitional protection is made available to those schools losing funding, either in full or a proportion of the loss.
- 4.19** At the joint Budget and SEN working group the implementation date of any potential changes was discussed. Dependent on the options being taken forward and the timeline for consultation with schools it may be possible to introduce changes with effect from 1st September 2021. As the S251 High Needs Statements for 2021-22 were due to be published at the end of February, the working group members asked that schools be alerted to the potential changes that may impact this year. The Schools Forum are asked to consider the potential implementation date and whether it should be 1st September 2021 or 1st April 2022.

5.0 OPTIONS

5.1 The Schools Forum is asked to:

- provide a view on whether schools should be consulted on the option to remove the Targeted SEN and, if so;
 - whether transitional protection funding should be made available and on what basis

and

 - the effective date of the proposed change;

or
- formally commission modelling of alternative options for consideration ahead of consultation with all schools.

6.0 RESOURCE AND VALUE FOR MONEY IMPLICATIONS

6.1 Resource and value for money implications are considered throughout this paper.

7.0 CONCLUSION

7.1 The Schools Forum are asked to note this paper and provide a view as to whether schools should be consulted on this option and if transitional protection should be made available or to formally commission alternative options for consideration before consultation with schools.

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