

## High Needs Funding Reform – stage 2

### Consultation Response

**1. In designing our national funding formula, we have taken careful steps to balance the principles of fairness and stability, Do you think we have struck the right balance?**

- Yes

- No

Leicestershire, as expressed through its Cabinet on 10 March 2017, has significant concerns over the proposals and that as a low-funded authority, will see no improvement to its financial position as a result of the proposals and in particular, that:

- (i) there is no evidence to support the proposed values and weightings within the proposed High Needs National Funding Formula, nor are they informed by the cost of education, particularly the cost of meeting the needs of children and young people with additional needs;
- (ii) whilst there is an assumption by the DfE that schools and local authorities will deliver efficiency savings, this may not be possible as schools funding has not increased in line with costs resulting in any efficiency gains being already realised;
- (iii) the delivery of a more efficient school estate is likely to require remodelling and rationalisation of provision, which will require significant capital investment.

Whilst we welcome the principle of moving to a formulaic distribution of the grant there is growing evidence that local authorities are spending in excess of the grant and expect that expenditure will grow faster than the grant allocations. It is essential that local authorities are funded to allow them to discharge their statutory duties for children and young people with special educational needs and disabilities.

We have concerns that there is significant uncertainty about whether any transfers from the School Block to High Needs Block in 2017/18 will be reflected in the 2017/18 baseline figures. We do recognise that any change to the baseline will be 'protected' by the statement that no local authority will lose funding for the first 4 years. However over this period at least one Comprehensive Spending Review and a general election followed by a new government will occur leaving this protection as vulnerable unless it is supported by legislation. There are also contradictions over the length of protection, the foreword refers to 'within 4 years' and paragraph 3.6 to 'will be in 4 years'.

If the Department for Education feel that the introduction of the proposed national funding formula addresses the shortcomings of the current funding system why is a further review necessary? Again any review would be as vulnerable as the protection set out within the proposals and the introduction of a funding system that adequately funds the needs of vulnerable learners may be many years away.

We would challenge whether the proposals actually deliver any change at all other than for those authorities that gain funding, for the authorities that do not gain under the proposals the grant effectively remains at historic spend for a further four years. The baseline figures also appear to omit the additional funding for demographic growth in 2017/18, we would also wish to seek assurance that the baseline will also include this funding.

We remain concerned that the factors will not identify the two populations where need and cost have significantly grown i.e. high functioning autism and social, emotional and mental health.

References within the consultation to percentages are misleading, firstly in respect of the proportion of funding to be delivered through the historic expenditure factor which is below the 50% figure quoted in the consultation and for the proxy factors where the consultation quotes percentages but does not explicitly reference that the percentages apply to less than 50% of the overall grant allocations which results in overall allocations of grant significantly lower from those quoted.

Whilst the use of the deprivation, low attainment, health and disability factors within the proposed formula are supported through the research undertaken by ISOS the consultation states that the relative weightings between them has little effect on the distribution of funding, if their use has little impact we would question their use at all and would suggest that less funding is delivered through them and the per pupil rate or the population factor be increased.

We are proposing a formula comprising a number of formula factors with different values and weightings.

We ask respondents to bear in mind with each of the following questions that we are redistributing funding. Any money that we put into one factor will have to come from another factor. We have indicated what we think is the right proportion or amount for each factor.

## 2. Do you agree with the following proposals?

Historic spend factor – To allocate to each local authority a sum equal to 50% of its planned spending baseline.

- Allocate a higher proportion
- The proportion is about right

- Allocate a lower proportion

We cannot support any of the above, whilst we recognise that it is this element of the formula provides some financial stability over the short term it also locks historic spend into the funding system for the medium term and there is no indication of how this will be removed from the formula and over what period of time.

We note that the illustrative figures accompanying the consultation shows that this factor accounts for 45% of the 'new' grant with the average being 44%, the formula fails to deliver what it is proposing.

Basic entitlement – to allocate to each authority £4,000 per pupil;

- Allocate a higher amount
- This is about the right amount
- Allocate a lower amount

Local authorities have a minimum financial commitment of £10,000 for each pupil within a specialised setting, the proposed value should recognise this and £4,000 per pupil is too low. We do not feel that funding at £10,000 would create a perverse incentive for local authorities to place a higher proportion of pupils in special schools. It is difficult to envisage that the remaining factors in the formula will deliver an additional £6,000 per pupil particularly given that historic spend is to account 50% of the allocation, or lower and the per pupil allocation is less than 10% of the overall formula.

We would question why this factor does not include pupils in alternative provision and specialist nurseries both of which are funded from high needs.

**3. We propose to use the following weightings for each of the formula factors listed below, adding up to 100%. Do you agree?**

Population – 50%

- Allocate a higher proportion
- The proportion is about right
- Allocate a lower proportion

We agree that a population factor should be within the formula but that factor should reflect the duties of local authorities as established under SEND Reform is to a population aged 0 - 25 and not 2 - 19 as proposed.

This is especially important given that since the current arrangements were introduced in 2013 local authorities funding responsibilities to students in further education have grown as have the costs which have contributed to the

pressures being experienced within the high needs block.

We also feel that the consultation is misleading when quoting the percentage of funding to be delivered through the proxy factors given that they represent a percentage of less than 50% of the overall high needs Dedicated schools Grant (DSG), the population factor accounts for just 22% of the total grant.

Free school meals (FSM) eligibility – 10%

- Allocate a higher proportion
- The proportion is about right
- Allocate a lower proportion

As a result of the constraints within the formula actual percentage of funding generated by the indicator cannot be more than 5%, the national average figure within the consultation is 4%.

Income deprivation affecting children index (IDACI) – 10%

- Allocate a higher proportion
- The proportion is about right
- Allocate a lower proportion

The amount of grant delivered nationally from this proxy indicator is 4%.

When combining the FSM and IDACI indicators 8% of funding is delivered nationally through the high needs proposals yet the proposed schools national funding formula delivers in excess of this at 9.3%, this is surprising given that both of these factors are deemed to correlate well to the prevalence of high needs yet the percentage for the school block, and indeed the proposals for the central schools block are significantly more.

Key stage 2 low attainment – 7.5%

- Allocate a higher proportion
- The proportion is about right
- Allocate a lower proportion

Key Stage 4 low attainment – 7.5%

- Allocate a higher proportion
- The proportion is about right
- Allocate a lower proportion

We support none of the above.

We feel the proportions allocated for prior attainment would be better placed

increasing the population factor.

Children in bad health – 7.5%

- Allocate a higher proportion
- The proportion is about right
- Allocate a lower proportion

We do not support the use of this factor given this is based on self-declaration, unpredictable and counted only in the national census every 10 years.

We feel the proportions allocated for prior attainment would be better placed increasing the population factor.

Disability living allowance (DLA) – 7.5%

- Allocate a higher proportion
- The proportion is about right
- Allocate a lower proportion

We feel this is too high and the funding best placed to increase the population factor.

**4. Do you agree with the principle of protecting local authorities from reductions in funding as a result of this formula? This is referred to as a funding floor in the consultation document.**

- Yes
- No

We do support the principle of a funding floor but have significant concerns about its deliverability. The floor however serves to deliver funding status-quo and as a result the formula changes serve no real purpose.

It is concerning to note that there will be a further consultation at some point over the next 4 years, this increases uncertainty about future grant allocations and further change. Local authorities are being encouraged to use this period to undertake a strategic review of SEN provision, this is exceptionally difficult to undertake in an environment where costs are increasing and the level of future funding is uncertain.

5. **Do you support our proposal to set the funding floor such that no local authority will see a reduction in funding, compared to their spending baseline?**

- Yes
- No

6. **Do you agree with our proposals to allow limited flexibility between schools and high needs budgets in 2018/19?**

- Yes
- No

Whilst we support the principle of flexibility, this should be full and not limited both in within a soft and hard schools national funding formula.

We are concerned that the proposals set out to restrict the ability for local authorities to transfer funding between blocks especially given that schools have a significant influence on the cost to local authorities in relation to pupils with high needs. Should the proposals continue along this line a perverse incentive will be introduced to the overall school funding system and result in increased costs for local authorities. It is essential that this proposal is reviewed to ensure that schools and local authorities can work in partnership to meet needs at the earliest possibility. The expectations on schools in relation to meeting needs for pupils with SEND should be clearly defined and local authorities should have recourse to funding from the School Block should schools fail to meet their responsibilities.

We would welcome the Department for Education confirming that where local authorities have used flexibility in setting the school and high needs budget in 2017/18 through transfers from schools to the high needs block, that the 2018/19 baseline fully reflects the level of 2017/18 spend and is confirmed at such at the earliest opportunity.

The consultation states that final weightings and allocations will be published in the summer, if there is slippage in this deadline it will be very difficult for local authorities to make informed decisions on setting budgets for 2018/19, particularly should the consultation prompt changes to the operation of the funding floor.

7. **Do you have any suggestions about the level of flexibility we should allow between schools and high needs budgets in 2019/20 and beyond?**

We are developing our proposals on the level of flexibility to allow in the longer term. We will consult fully on our proposals at a later stage, but we would welcome any initial comments now

Under the schools national funding formula proposals local authorities will not be responsible for setting school budgets in 2019/20 which is likely to remove all flexibility.

Flexibility operates on a two way process, if the school block flexibility to fund high needs is removed or limited then there should be no expectation that school would receive additional funding if the cost of high needs provision reduces.

At a minimum local authorities should have the flexibility through partnership working with schools the ability to establish pooled budget arrangements to meet the costs of high needs. Schools have a significant influence over the cost of high needs and in the current system have a financial and performance incentive to move pupils towards specialist provision and costs to local authorities, local authorities must have sufficient influence and tools to ensure that all schools are fully meeting their responsibilities for SEND provision and are as inclusive as possible.

**8. Are there further considerations we should be taking into account about the proposed high needs national funding formula?**

We welcome the funding allocated through the Strategic Planning Fund but have real concerns that at the end of the review there may be very few actions that authorities may be able to take should that review conclude that capital investment is required, whilst the consultation declares £200m being available in reality that is unlikely to deliver any significant change.

It is difficult for local authorities to plan sufficiency for school places in an environment of academies and free schools, this position is exacerbated in specialist provision with numerous independent providers. Any structural changes will be resource intensive both in terms of capital but also in terms of revenue. With significant constraints in local authority budgets any structural change would be as exceptionally difficult to achieve even where processes allowed it to happen.

We would urge the Department for Education in its considerations of mainstream school funding to ensure that any changes to be implemented for the 'hard' national funding formula to recognise the ability of schools to push pupils towards specialist and to reward inclusive practice. Whilst consideration of the notional SEN budget may give some ability to measure the level of financial commitment within a school to pupils with SEND there is no measure of outcomes. The EHCP process provides some measure of need but does not consider schools whose effective practice meet needs at a much lower level and employ effective support to prevent needs from escalating.

We feel that the total separation of the schools and high needs blocks through the ring-fencing of the school block introduces a real risk that schools view provision for pupils with SEND as a local authority issue which is a real and

significant risk to improving educational attainment and outcomes for vulnerable pupils.

Local authorities face real difficulties in ensuring that health partners are appropriately contribution to pupil needs where there is a clear medical need and associated costs in keeping children safely in school; the school environment allows them to state that costs are education in nature and this adds significantly to High Needs Block costs.

The funding floor and proposed further consultation creates a cliff edge of uncertainty that isn't useful when planning service provision.

There is an opportunity for a national formula for mainstream schools to lead to a national notional SEN allocation and this should be coupled with clear information on school responsibilities for supporting pupils with SEN and what Element 1 funding should provide as part of a national universal offer rather than a local offer.

If a high needs funding system is to be efficient and target funding effectively at need then it is essential that funding expectations are clearly defined for schools and for health partners. It is inappropriate that funding for the educational needs of pupils is being used to fund medical interventions and therapists.