

**CABINET - 22 NOVEMBER 2019****SPECIAL EDUCATION NEEDS AND DISABILITIES – PROPOSED
TRANSFER OF FUNDING WITHIN DEDICATED SCHOOLS GRANT****REPORT OF THE DIRECTOR OF CHILDREN AND FAMILY SERVICES****PART A****Purpose of the Report**

1. The purpose of this report is to advise the Cabinet of the outcome of the consultation with schools on a proposal to transfer up to 0.5% from the Schools Block to the High Needs Block to help manage the revenue budget position.
2. The Cabinet considered a report on the proposed transfer at its previous meeting on 22 October.

Recommendations

3. It is recommended that:
 - (a) The outcome of the consultation on the proposed transfer of 0.5% from the Schools Block of the dedicated Schools Grant to the High Needs Block and the position of Schools Forum be noted;
 - (b) A transfer of funding from the Schools Block to the High Needs Block is not pursued further at the present;
 - (c) It be noted that the Director of Children and Family Services will be working with Leicestershire schools to develop alternative measures to address the High Needs Block deficit;
 - (d) It be noted that should the High Needs Block deficit continue to increase, it may be necessary to consider further measures, including a transfer of funding, in future years.

Reasons for Recommendations

4. Local authorities are able to transfer up to 0.5% of the gross Schools Block funding to High Needs following consultation with schools and with the approval of the Schools Forum. Should the Schools Forum not approve a transfer approval can be sought from the Secretary of State.

5. It is considered that effecting the transfer in 2020/21 at this stage in the High Needs Development Plan may affect the achievability of the overall Plan. Alternative arrangements are being explored to address the funding gap.

Timetable for Decisions (including Scrutiny)

6. The Schools' Forum discussed the High Needs Development Plan and proposed transfer from the DSG to the High Needs Block on 30 September 2019 and voted on the proposal on 6 November.
7. The Children and Families Overview and Scrutiny Committee considered a report on SEND matters at its meeting on 5 November and noted the proposed funding transfer.

Policy Framework and Previous Decisions

8. The Children and Families Act 2014 introduced a number of new duties for local authorities and Clinical Commissioning Groups (CCGs). The County Council's SEND Strategy 2017-2020 outlines these responsibilities and sets out how the Council and its CCG partners will work together to meet these.
9. The Council's Strategic Plan 2018 to 2022 and the Single Outcomes Framework outline its long-term vision for the Leicestershire and are underpinned by other key policies and strategies including the Medium-Term Financial Strategy (MTFS) (reviewed annually) and the Council's Transformation Programme. The proposals in this report reflect the outcomes-based policy and commissioning approach, which includes a long-term vision, activity and spend focused on achieving real and lasting benefits and better integration across the Authority and with partner organisations.
10. In March 2017 the Cabinet received a report on the proposed responses to the second stage of consultation issued by the Department for Education (DfE) on the implementation of the National Funding Formula for Schools and the introduction of a formulaic basis for the distribution of the High Needs Block of the Dedicated Schools Grant in 2018/19. The Cabinet expressed concern about the low levels of High Needs funding in the Dedicated Schools Grant.
11. In January 2018 the Cabinet approved the Leicestershire School Funding formula for 2018/19 and 2019/20.
12. In December 2018 the Cabinet authorised the consultation on the High Needs Block Development Plan, that included proposed developments of SEND provision across the County.
13. In May 2019 the Cabinet noted the outcome of the public consultation and agreed a number of actions to progress the High Needs Development Plan, including development of new SEND provision in maintained schools across the County.

14. In October 2019 the Cabinet noted progress of the High Needs Development plan and, inter alia, authorised the Director of Children and Family Services to apply to the Secretary of State for approval of the transfer of up to 0.5% of the Schools Block funding to the High Needs Block should it not be agreed by Schools Forum.

Resource Implications

15. In Leicestershire the Schools Budget, which includes the High Needs Block, is set at zero, i.e. expenditure is set at the level of grant received. The High Needs Block has been under financial pressure in recent years and moved from an underspend of £2.8m in 2013/14 to an overspend of £2.3m in 2018/19.
16. To date overspends have been met from funding held in the Dedicated Schools Grant Reserve which will record a deficit in 2019/20. Despite the additional money announced by the Secretary of State in September for High Needs (estimated to be around £5.48m for Leicestershire), it remains crucial to realign expenditure to the resources available.
17. Overspend can be carried forward to be recovered from future years' grant with the approval of the Schools' Forum; it is estimated that the High Needs Development Plan results in expenditure aligned with the level of grant in 2022/23 with the deficit fully recovered by 2024/25. It will be necessary to submit an annual report to the DfE on the actions taken to ensure expenditure aligns with allocated grant.
18. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

Circulation under the Local Issues Alert Procedure

19. As this is a matter that will affect most areas of the County, a copy of the report is being circulated to all members of the County Council.

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PART B

Background

High Needs Development Plan

20. The High Needs Development Plan is intended to ensure the best possible use of available resources in the High Needs Block to enable the development of new provision and expansion of existing provision in mainstream or special schools. The fundamental driver for change is to support children to be educated locally in inclusive settings that meet their assessed needs. SEND provision needs to be increased significantly to meet rising demand.
21. In order to deliver the changes, considerable revenue and capital investment is taking place. The total projected cost of the revenue investment is £2.8m for the project team and a further £6.3m to bring the new places into commission over the Plan period. The costs are built into the High Needs Block overspend. The MTFs make provision for capital investment of £22.3m (a further £10m would be needed for a new area special school). Funding consists of a mixture of funding sources including Basic Need Grant, a bid to the DfE for funding for a Free School, capital receipts and Local Authority capital.
22. Despite the activity within the High Needs Development Plan it is projected there will be a cumulative deficit peaking at £13.5m in 2021/22 before the budget is fully recovered in 2024/25.

Proposed Transfer between the Schools Block and High Needs Block of the DSG

23. As explained in the previous report, consideration was given to transferring money between the Schools Block and the High Needs Block of the DSG to reduce the cumulative deficit.
24. Local authorities are able to transfer up to 0.5% of the gross Schools Block to High Needs following consultation with schools and with the approval of the Schools Forum. Should the Schools' Forum not approve a transfer, approval can be sought from the Secretary of State. Approval would apply only to the year it is enacted.

Views of the Schools Forum

25. On 30 September the Schools Forum considered a report setting out the Council's intention to consult with schools on a transfer of up to 0.5% (circa £2m) for 2020/21.
26. A consultation was then undertaken with schools between 23 October and 31 October 2019. Of the 103 responses received, 84% of respondents either strongly disagreed or tended to disagree with the proposed 0.5% transfer.
27. The consultation also received a large number of comments, most of which concerned the impact of the transfer on individual school's budgets. A

predominant issue was the disproportionate impact of the proposed transfer on schools in areas of high deprivation that are already receiving a lower level of funding.

28. At its meeting on 6 November the Schools Forum unanimously voted against the transfer and made the following statement -

“Schools Forum does not agree to the proposals to transfer £2m/0.5% from schools block and asks Leicestershire County Council to appeal to the Secretary of State to provide for improved funding for high needs SEN, either directly or through improved grant from government. The Forum welcomes the developments to progress the high needs programme and will work in partnership to try and bring forward the proposed actions.”

Considerations

29. The Cabinet at its meeting on 22 October agreed that the Director could apply to the Secretary of State to agree the transfer if the proposal was rejected by the Schools Forum. In considering whether to pursue this option, a number of factors have been taken into account.
30. There is the risk that reducing school funding could result in mainstream schools being less able to accommodate those children requiring support, resulting in more pupils needing high needs support in a specialist placement. A critical element of the High Needs Development Plan is ensuring that, wherever possible, children can remain in mainstream school. The transfer would create a significant risk of a rise in numbers of children leaving mainstream schools.
31. A key element of the High Needs Development Plan is the Council’s work with schools and academies across the County. Schools are working with the Local Authority to deliver the Plan, notably in helping to develop new SEND units and by continuing to provide inclusive education.
32. The proposed 0.5% transfer would have the effect of reducing the High Needs deficit by £2m to £11.4m, but the recovery period would not be reduced (it is expected to be 2024/25 before the budget would be fully recovered).
33. As highlighted in the responses to the consultation, the transfer would disproportionately affect schools which were otherwise set to gain the most from the extra funding announced by the Secretary of State for 2020/21. These schools are the ones which are lower-funded (largely secondary schools located in areas of higher deprivation).

Proposed Action

34. The financial position of the Council remains challenging and it is essential that strong financial control is in place. The rising deficit in the High Needs Block is a major concern. In putting forward the proposed transfer the Authority was very much aware of the pressures affecting schools: despite the growing shortfall in funding it had not sought a transfer for some time.

35. Schools have been engaging exceptionally well with the Local Authority to deliver the High Needs Development Plan and have made it clear that they are committed to working with the Council to secure alternative methods for achieving the £2m savings should the transfer not go ahead.
36. It is considered that these measures and a continued focus on the actions set out in the High Needs Development Plan should deliver the £2m savings that would have been achieved by the transfer. It is therefore recommended that the transfer of funding from the Schools Block to the High Needs Block is not pursued at the present.
37. The Cabinet is asked to note that should the High Needs Block deficit continue to increase in 2020/21, it will be necessary to consider further measures, including a possible transfer. This would be the subject of a further report to members should the need arise.

Equality and Human Rights Implications

38. The HNB Development Plan seeks to ensure equality and equity of opportunity for all Leicestershire children and young people irrespective of their need or locality.
39. There are no equality or human rights implications arising from the recommendations in this report.

Risk Assessment

40. There is a key risk in terms of the above proposals in particular around the Financial/Revenue budget impact - the position on future funding is unclear and expenditure is exceptionally volatile. Changes to the assumptions included in the High Needs Development plan in respect of demand and places available will change the financial model. The position is monitored through the High Needs Board.
41. The risks to the Council arising from the issues outlined above will be kept under regular review and reports made to Members as necessary.

Background Papers

Leicestershire County Council Special Educational Needs and Disability Strategy 2017-2020.

<http://politics.leics.gov.uk/documents/s136003/Appendix%20A%20-%20Leicestershire%20SEND%20Strategy%202017-20.pdf>

Report to the Cabinet on 24 May 2019 – SEND Provision results of consultation on the development of new provisions (High Needs Block Development Plan)

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=5603>

Report to the Cabinet on 10 March 2017 – 2018/19 School and High Needs Funding Proposals - <http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=4859>

Report to the Schools' Forum on 26 November 2018 – High Needs Block Recovery Plan <http://politics.leics.gov.uk/documents/s142495/High%20Needs%20Block%20Recovery%20Planv3.pdf>

Report to the Cabinet on 22 October 2019 - Special Educational Needs and Disabilities Latest Funding Position (High Needs Block) and Development of New Provisions - and minutes of that meeting
<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=5606>

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