Leicestershire County Council

SCHOOLS FORUM

High Needs Update

28 September 2020

Content Applicable to;		School Phase;	
Maintained Primary and Secondary Schools	Yes	Pre School	
Academies	Yes	Foundation Stage	
PVI Settings	Yes	Primary	
Special Schools / Academies	Yes	Secondary	
Local Authority	Yes	Post 16	
		High Needs	Yes

Purpose of Report

Content Requires;		By;	
Noting	Yes	Maintained Primary School Members	
Decision		Maintained Secondary School Members	
		Maintained Special School Members	
		Academy Members	
		All Schools Forum	Yes

1. This report sets out the current position with regard to the High Needs Development Plan and the current financial forecast. The report sets out the systematic issues within the SEND environment and the growing recognition and the financial position being a symptom of that rather than a pure financial management issue.

Background

2. The financial position of the High Needs Block (HNB) and the issues creating that position has been set out in a number of reports to Schools Forum over a number of years.

3. The financial position has been updated to reflect the trend in provision from 2019/20, updated average unit costs from 2019/20, forecast 2020/21 expenditure and the provisional 2021/22 High Needs Dedicated Schools Grant (DSG) settlement.

The National Perspective

4. Concern continues to grow nationally about the sustainability of the current SEND system both in terms of provision and funding.

5. The national financial picture is worsening, and research shows that the gap between High Needs DSG and expenditure is growing;
    - In October 2019 the House of Commons Education Committee contends that the DfE set local authorities up to fail by making serious errors in the way it administered funding for SEND reform and failing to provide extra money when it was needed.
    - In July 2019 the Education Committee reported that funding for SEND as ‘completely inadequate’ with local authorities facing a funding shortfall in excess of £1.0bn by 2021.
    - The County Councils Network reports for the period 2016 -2019 that the national high needs overspend has increased by 83% and that 28 of 33 authorities responding to their survey expected a high needs deficit in 2020/21.

6. The research is consistent in its view that there is no single reason for the problem and reports high needs deficits as a system wide problem rather than a pure financial issue. It lists amongst its contributory factors:
    - The implementation of the Children and Families Act 2014. This increased the age range to be supported from 2 – 19 to 0 -25 without an associated increase in funding. It also raised parental expectations on the support available.
    - The nature of SEND legislation gives weight to parental preference for placements in tribunal decisions which fetters the ability to maintain a threshold for Education Health and Care Plans (EHCP) assessments or control the entrants into independent places.
    - Pressure on school budgets where levels of funding were frozen between 2010 and 2019, this has resulted in schools being less able to support children and young people with SEND without recourse to additional local authority funding.
    - School funding reform which in 2013 introduced a new system for funding SEND within schools through the establishment of a threshold whereby local authorities are required to provide additional funding to schools where the additional cost of a pupils needs exceed £6,000. This threshold has not increased leaving the burden of cost increases falling to local authorities. This was a significant change in Leicestershire who pre 2013 had fully delegated funding low level, high incidence SEND and early support to schools.
    - Schools Funding reform also introduced the National Funding Formula for High Needs. Within the formula the focus remains on historic levels of spend and has not reflected the growing demand and costs.

- Demand for SEND support is growing at a higher rate than demographic growth and the average unit cost of provision is growing.
- High Needs and School budgets are meeting too high a proportion of costs that should be met by Health.
- The combination of the policy frameworks for funding and performance for schools have created an environment in which mainstream schools are not rewarded and incentivised for being inclusive.
- Local authorities have around 85% of their spend tied to individual pupils and placements which cannot be released in the short term, this limits the ability to deliver savings

7. The research undertaken by the Isos Partnership for the LGA is probably the most far reaching in terms of the overall SEND system and draws several conclusions and suggests that irrespective of the level of funding the problems currently being encountered cannot be resolved by purely increasing funding levels;
    - ‘ *It is the contention on this research that there are structural features of the current SEND system which mean that there will continue to be a significant risk of overspending the high needs block, even if budgets were very significantly increased.’*
    - *‘Local authorities have all the responsibility for maintaining high needs expenditure within budget, and yet have no hard levers with which to effect this. The continued viability of the system relies too much on the ability of local government to cajole partners to enter into collaborative, inclusive approach to developing and delivering local provision for SEND, without the powers to sustain such an approach in face of misaligned incentives.’*

High Needs Dedicated School Block

8. The National Funding Formula for High Needs Funding was introduced in 2013. The formula is unresponsive to pupil numbers and therefore the increasing demand upon it. The provisional 2021/22 settlement shows the following distribution:
    - 36% is allocated on the level of historic spend
    - 10% is allocated on the numbers of pupils within specialist provision.
    - 2% is allocated through the funding floor
    - 31% is allocated on pupil population. It is worth noting that the allocation used the 2 -19 population and not the 0 – 25 population it provides for
    - 21% is allocated through other proxy indicators of SEND i.e. deprivation, children with bad health, low attainment and Free School Meals

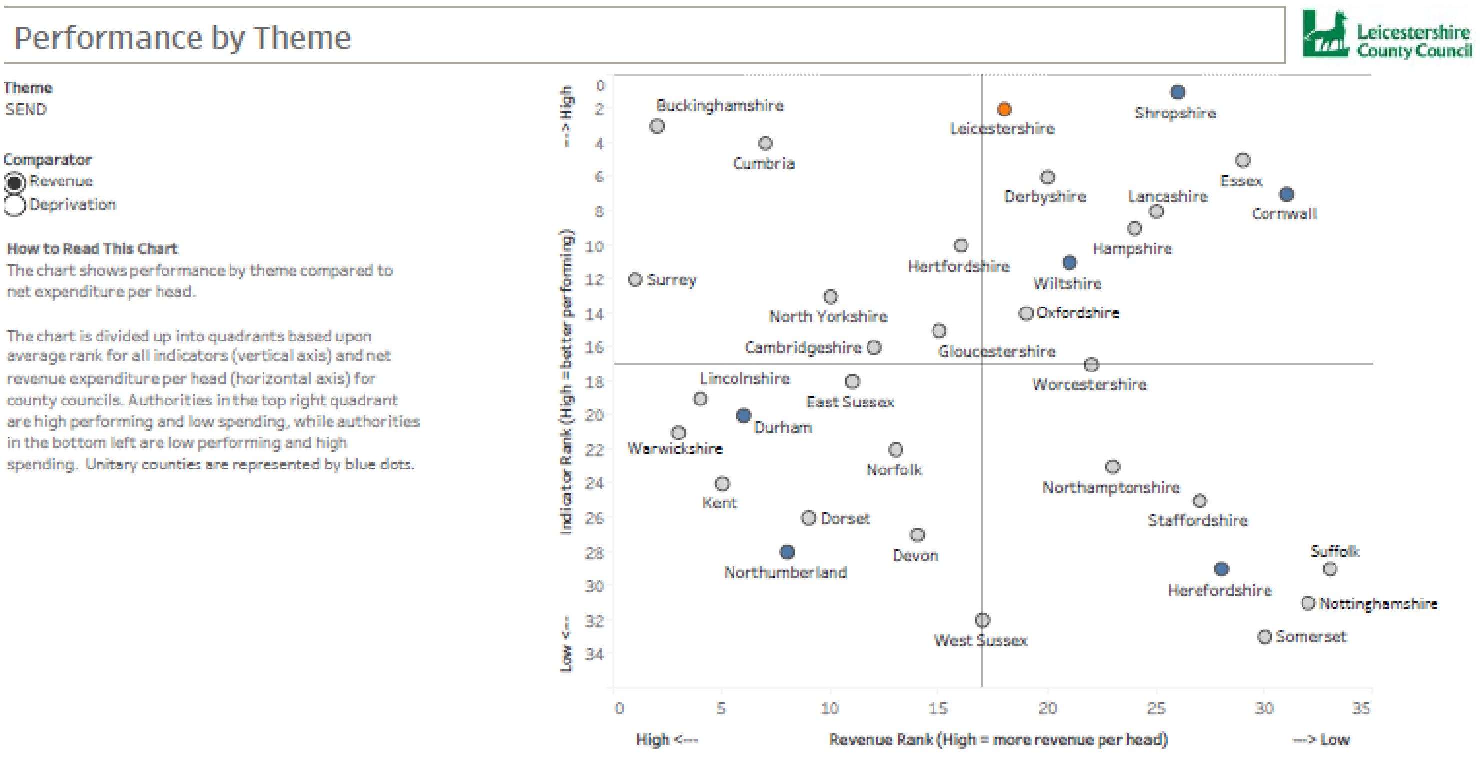
    In 2013/14, the first year of the new formula, Leicestershire’s expenditure was almost 1% below funding, for 2020/21 expenditure is 14% in excess of the grant despite the grant including c£10m of funding generated from headroom, prior to the restriction on movements being introduced in 2018/19, from the Schools Block now baselined within High Needs.

9. The formulaic allocation reflects the expected incidence of SEND within the population rather than the numbers of pupils supported and their individual needs. DfE Benchmarking data compares expenditure to the DSG allocations, this shows Leicestershire below statistical neighbours in terms of need as measured by the formula factors but higher on both expenditure and the number of Education Health and Care Plans.

10. This position is deemed to be the result of the Leicestershire dependence upon Independent Special School (ISP) placements, an issue the High Needs Development Plan is seeking to address, and the increase in pupils with Communication and Interaction (C & I) and Social Emotional Metal Health (SEMH) Needs for which there is no proxy indicator of need within the formula.

11. The following chart compares SEND revenue expenditure with performance against other County Councils. Authorities in the top right quadrant are high performing and low spending. The table below shows Leicestershire's overall rank for performance and expenditure on these services.

Theme	Performance rank of 33 (1 is highest performing)	Net expenditure rank of 33 (33 is lowest spending)
SEND	**2**	**18**

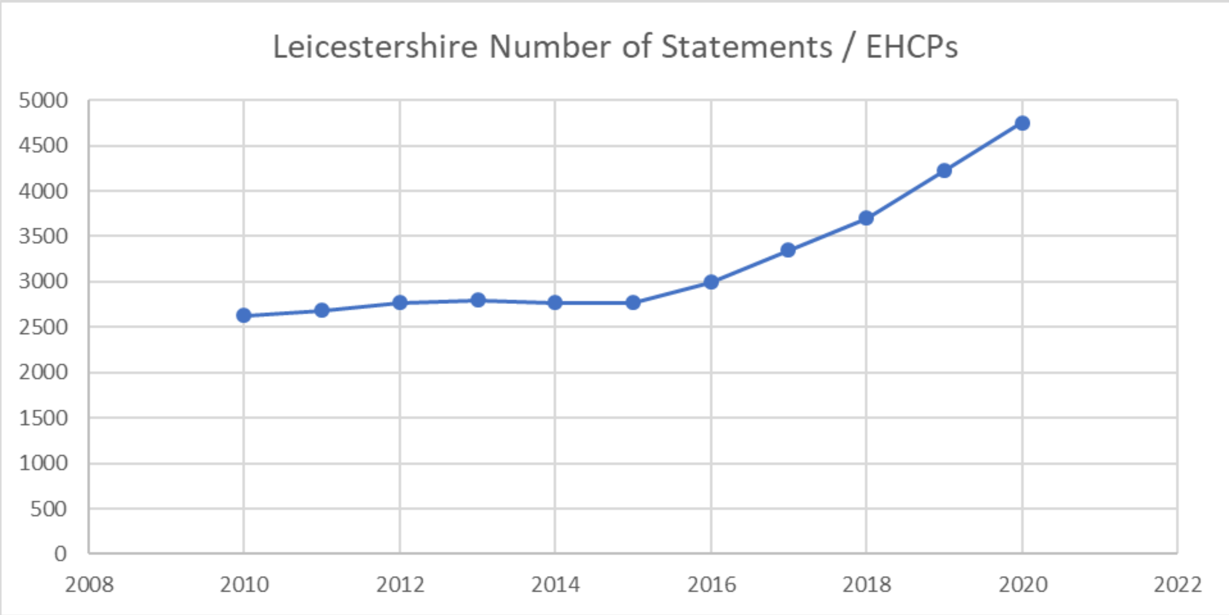


Source: LAIT, ASCOF, Fingertips, various. Produced by the Business Intelligence Service, Leicestershire County Council, 2020.

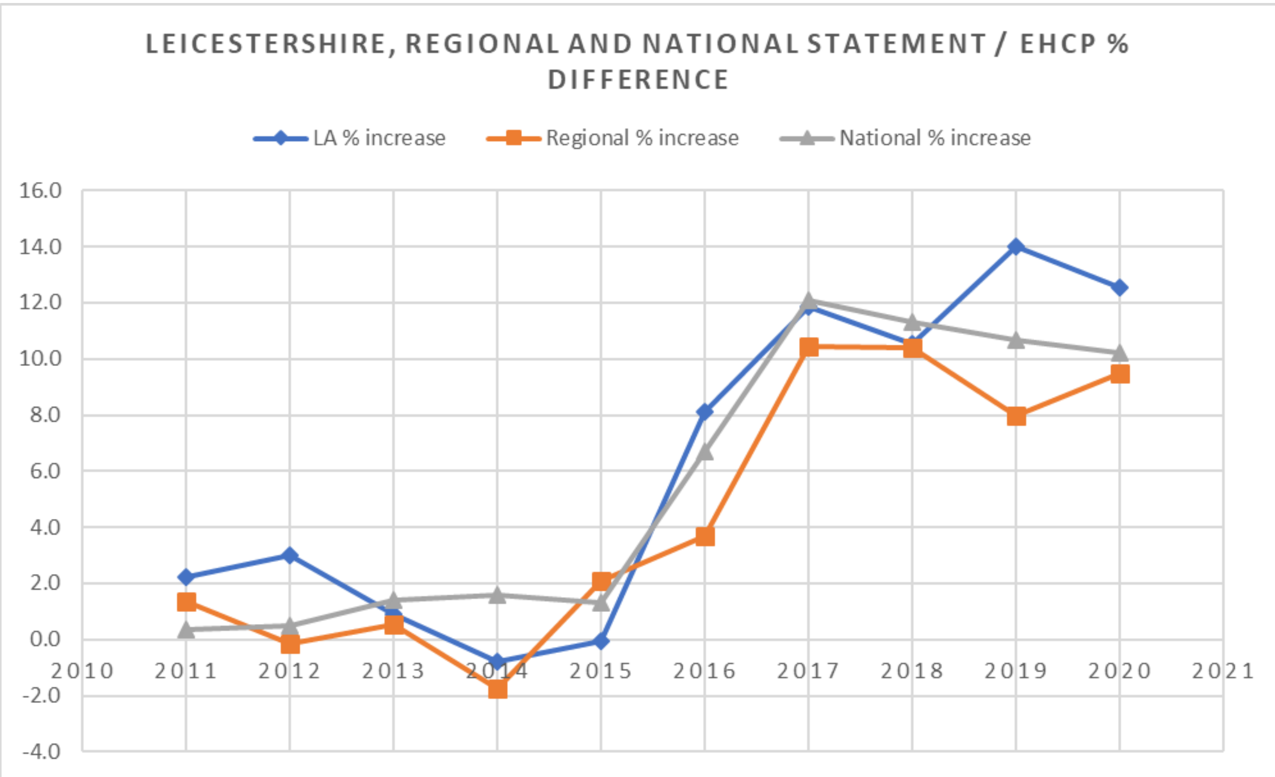
Demand

12. Demand for EHCP's is growing both locally and nationally. The 2020 SEN2 data issued by the DfE identifies that the rate of growth increased in 2015/16

following the implementation of SEND reform. The following table shows the number of EHCP's, and prior to SEND reform Statements of Special Educational Needs;



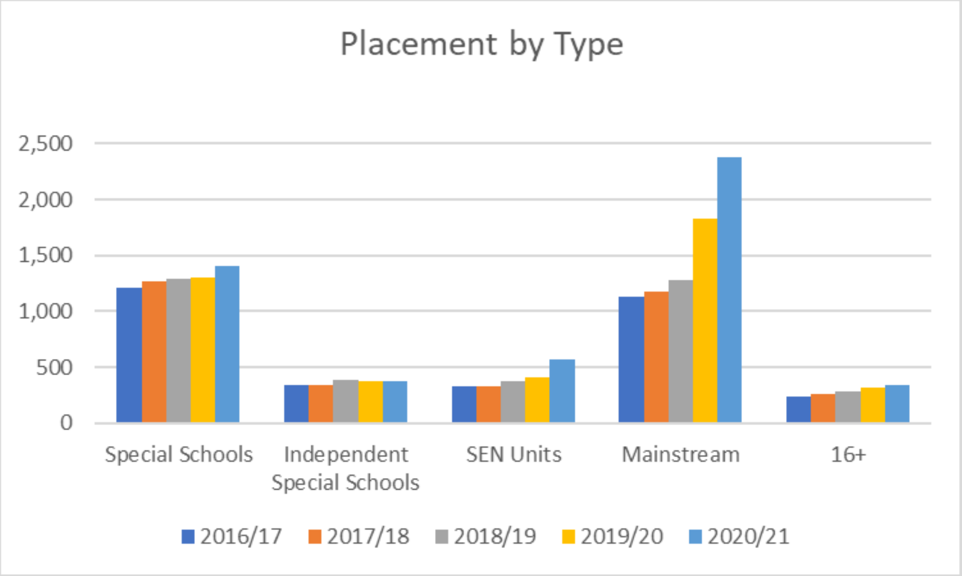
13. This pattern of growth is also seen in the national data where a Leicestershire, regional and national position can be compared;



14. Only headline data from the 2020 SEN2 data has been published meaning that comparison on needs and its incidence within the pupil population cannot be compared, but high level conclusions can be drawn;

- In January 2020 the number of EHCP's had risen to 4,751, an annual increase of 12.5% and the rate of growth exceeds that within the general population.
- The rate of increase in growth from the previous year was 19.5%. This is higher than the regional and national increase but lower than that seen in 2019 0f 65%.

15. In terms of provision, as a result of capital investment of c£30m, it can be seen that the placement mix is beginning to change, the number of pupils within higher cost Independent Special Schools is no longer growing and a higher proportion of pupils are having needs met within either mainstream schools (an increase from 35% 2016/17 to 73% 2020/21) or units attached to mainstream schools (an increase from 10% in 2016/17 to 18% in 2020/21). It is forecast that the numbers of pupils placed in Independent Special Schools will fall over the medium term as the new special schools planned for the County begin to admit pupils.

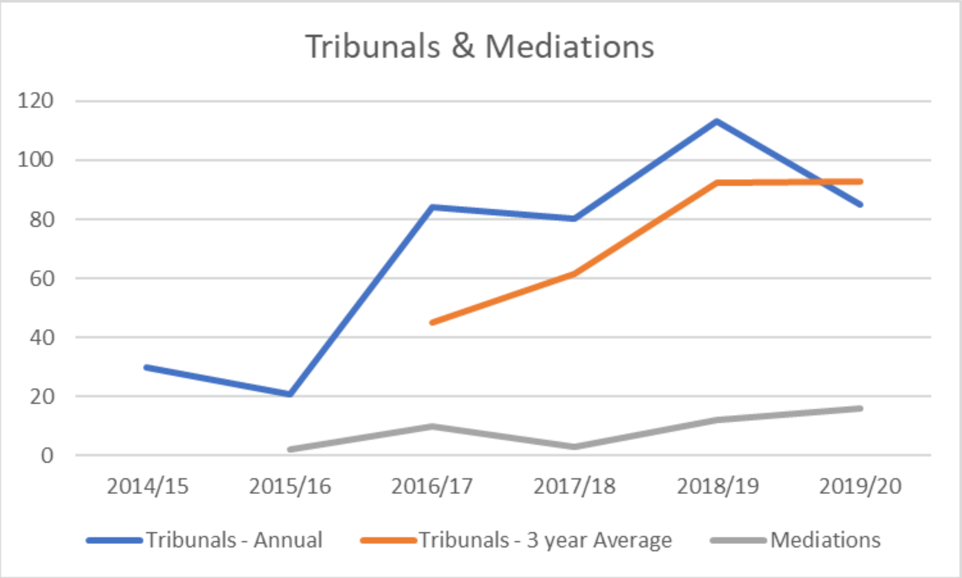


16. It can also be seen from the above table that the capital investment is resulting in a growth in placements within local specialist provision which has stabilised the number if independent school places, but also that the rate of growth in mainstream provision is accelerating significantly and 2019/20 saw the number of supported packages increase by 67%.

External Influences

17. Parental expectations have a significant impact on the type of placement specified within the EHCP. Parents have the right to express a preference for the school they wish their child to attend. The outcome of tribunals and

mediation may result in the decision of the local authority being effectively overruled and impact on the placements and its costs. The trend of tribunals and mediations is shown in the following table.



The 2020/21 Budget Position

18. DSG is a ring-fenced grant and local authorities are required to carry forward any surplus or deficit to be met from future years grant. The DSG Earmarked Fund recorded an overall deficit of £4m for 2019/20, a £7m deficit on high needs being offset by a surplus from the Schools Budget as a result of funding for pupil growth being retained to meet future commitments.

19. The High Needs Budget is forecast to further overspend by c£11m in 2020/21 resulting in an overall deficit of £18m at the end of the financial year. Placement costs account for 90% of all high needs expenditure, movements in numbers and type of placement can therefore have a significant impact on the level of expenditure. At this point of the financial year it is difficult to assess whether the trend in provision is as forecast given changes in destinations at transition points between academic years and expected pupil destinations.

20. Covid-19 has disrupted workflow and the number of requests for assessment have fallen significantly, as schools begin to reopen in the autumn it is expected that this position will reverse. Additionally the pandemic may have had a detrimental impact on pupils both in terms of mental health and their ability to learn which may manifest through increased needs that may require additional support and the number of EHCP's is likely to rise further.

The Medium Term Financial Position

21. The Department for Education announced the provisional Schools Budget settlement for 2020/21 on 20 July which includes an increase of £730m nationally with all authorities receiving a minimum increase of 8% and a maximum of 12%. At the funding floor Leicestershire receives the lower increase. Whilst on a cash basis the provisional High Needs DSG has increased by £7.8m the increase includes a transfer of a specific grant to meet the additional costs incurred by schools in respect of teacher pay and pension increases.

22. The revised financial forecast reflecting the provisional 2021/22 settlement for the MTFS period is set out in the following table;

	2020/21 £,000	2021/22 £,000	2022/23 £,000	2023/24 £,000
High Needs Funding	-74,752	-74,752	-74,752	-74,752
Placement Costs	79,118	88,724	94,604	100,883
Other HNB Cost	8,708	8,708	8,708	8,708
Commissioning Cost - New Places	3,669	1,061	254	0
Project Costs	767	1,368	898	0
Total Expenditure	**92,262**	**99,861**	**104,464**	**109,591**
Funding Gap Pre Savings	**17,510**	**25,109**	**29,712**	**34,839**
Funding Changes	0	-6,651	-13,651	-11,651
Demand Savings	-102	-4,447	-5,076	-5,577
Cost Reduction Savings	-6,367	-10,039	-11,947	-11,983
Total Savings	**-6,469**	**-21,137**	**-30,674**	**-29,211**
Annual Revenue Funding Gap	**11,041**	**3,972**	**-962**	**5,628**
2019/20 High Needs Deficit Brought Forward	**7,062**			
Cummulative Funding Gap	**18,103**	**22,075**	**21,112**	**26,740**

23. Assumptions on the rate of pupil growth and average unit costs have been factored into the plan based on current trends, these are reviewed on a quarterly basis.

24. The DfE have enacted legislation to require local authorities to carry forward a DSG deficit to be met from future years grant. In the interim the deficit position is being temporarily cash flowed by the County Council's General Fund. However, the current plan does not fully recover the deficit in the medium term and the long term financial position is of concern.

25. Under the terms and conditions of DSG a local authority with a DSG deficit '…*must co-operate with the DfE in handling that situation'.* There is no definition of *'co-operate'* but it is expected that this will include providing information on the plan to rectify the situation, meetings with officials from the DfE and a requirement to report to the Schools Forum. The most recent guidance from the DfE sets out a recognition that some local authorities will not be able to pay off an historic deficit over the next few years and that where that is the case the DfE will require *'convincing evidence'* to support that position. Discussions with DfE indicate that they will first look for authorities to meet in year expenditure from DSG however, the current financial plan does not achieve an in year balanced position. No view can be formed on the nature of the discussion with the DfE or any requirement(s) they may wish to impose.

26. The DfE are clearly placing the resolution of DSG deficits with local authorities and are often contradictory in their expectations. With insufficient funding to eradicate deficits local authorities are required to set aside General Fund revenue to financially back the deficit.

Planned Savings

27. The financial plan includes a number of savings which are tracked monthly through the High Needs Block Programme Board and CFS DMT Change Board. All savings are supported by management information presented through dashboards which are used to monitor progress.

Savings are defined in three key groups – funding, demand and cost reduction:

28. **Funding Savings** –are set out in the following table and include increased DSG as set out in the July 2020 provisional settlement together with expectations for 2022/23 arising from the three year settlement announced in July 2019. The impact of the 2022/23 settlement is unknown;

	2020/21 £,000	2021/22 £,000	2022/23 £,000	2023/24 £,000
Increased DSG - Provisional July Settlement		-7,807	-12,807	-12,807
Increased DSG - Pay Grant to Special Schools		1,156	1,156	1,156
Schools Block Transfer - 0.5% Schools Block DSG			-2,000	
Potential Funding Savings	**0**	**-6,651**	**-13,651**	**-11,651**

The provisional settlement includes a transfer of former pay and pensions received by special schools through a specific grant, this reduces the overall funding to the local authority as it will need to be passported to special schools through their funding rates.

29. When Schools Forum discussed the proposed Schools Block Transfer for 2020/21 at its meeting in September 2019 it gave a commitment to work with the local authority to reduce high needs spend, in doing this a number schools have agreed to open enhanced resource bases which are contributing to reducing cost. However the gap between high needs expenditure and funding

remains and a deficit of £26.7m is forecast over the period of the Development Plan. When the County Council's Cabinet agreed not to pursue a transfer for 2020/21 the potential for such a transfer in future years was not ruled out.

30. The introduction of the minimum per pupil funding levels and their subsequent mandatory nature means that it isn't possible for all schools to take an equal impact of any Schools Block Transfer. The schools significantly affected are those with high levels of additional funding, most usually those with high levels of deprivation funding, these schools are most likely to have higher proportions of pupils with SEND. Schools funded at the minimum per pupil funding level are unaffected by any transfer and those schools with a funding increase between 2.1% and 4% could only contribute any funding the received above the minimum per pupil levels. Whilst the precise impact would be dependent on the methodology used to remove the funding from the overall Schools Budget and the October census data it is likely that just 89 (33%) schools would be affected by any transfer.

31. The local authority is seeking the view of the DfE in the potential to vary the minimum per pupil funding levels. Should this not be ruled out discussions will be undertaken with schools to consider how such a transfer may be able to be undertaken in 2022/23. The financial plan therefore continues to include a potential transfer of £2m from the Schools Block to High Needs for 2022/23, no transfer will be sought for 2021/22.

32. At the meeting of the Schools Forum on 30 September 2019, schools committed to work with the local authority to reduce the DSG deficit and as a result a number have, or will shortly be, opening SEN units to reduce the cost of placements. Further work is underway developing inclusive practices which will reduce the number of pupils financially supported through High Needs funding.

33. **Demand Savings** – are set out in the following table and are actions where there is the ability to influence the rate of growth in the number of pupils financially supported through the high needs block

	2020/21 £,000	2021/22 £,000	2022/23 £,000	2023/24 £,000
Action 2 - reduce number of children in Independent Special Schools.	-102	-277	-452	-610
25% of all children in SEMH / C & I Pupils in Units to move to more inclusive setting		-195	-480	-765
Slow the rate of growth in post 16 EHCP's		-60	-105	-163
Reduce proportion of repeat referrals	0	-801	-801	-801
Reduction in proportion of 3 year old assessment requests	0	-357	-357	-357
Improved Consistency in decision making	0	-1,710	-1,710	-1,710
Reduce the number of referrals entering SENA	0	-1,047	-1,171	-1,171
Total - Potential Demand Savings	**-102**	**-4,447**	**-5,076**	**-5,577**

34. **Cost Reduction Savings** – are set out in the following table and are actions where there is the ability to influence the average unit cost per type of placement.

	2020/21 £,000	2021/22 £,000	2022/23 £,000	2023/24 £,000
Develop Local Provision	-5,732	-7,954	-8,124	-8,160
Action 6 - Transfers from Ind / Special at transition points	0	-224	-244	-244
Whole School Review - Overall Reduction in average unit cost of EHCP's	0	0	-506	-506
Increase consistency of decision making and allocation of resources	0	-586	-586	-586
Realignment of ASD Unit Funding - 2018 Units	-82	-300	-300	-300
15% Hours Reduction on EHCP's over 25 Hours	-423	-845	-1,267	-1,267
5% contract efficiency on ISP's 1% year 1 rising to 5% year	-130	-130	-920	-920
Total - Potential Cost Reduction Savings	**-6,367**	**-10,039**	**-11,947**	**-11,983**

The High Needs Development Plan

35. A transformation project led through the authorities Transformation Unit focuses on a system wide approach and has implemented activities across a wide range of teams but with the golden thread of impacting two key high level variables. Firstly, the overall number of EHCPs and secondly reducing the average unit cost of those EHCPs. The programme is constantly examining best practice from elsewhere and analysing existing service data to look for further opportunities and currently consists of activity such as;

- A focus on contractual spend with Independent Specialist Providers – Learning from the successful interventions in learning disability in the Adults and Communities (A&C) Department as well as regional best practice, this activity focuses on forensically understanding our key supplier as businesses and providers with a view to achieving a % efficiency on the contracts. There is also work to review current Service Level Agreements across resource units.
- Developing a wider inclusion offer – Focusing downstream and on the prevention agenda the programme has delivered products which give schools to tools to not rely on EHCPs. These tools are both universal, for example a revising the local offer, as well as targeted through creating new pathways such as the graduated response.
- Ensuring existing plans are appropriately resourced – Reviewing the existing allocation of resources to plans and reviewing those against the current needs of the children within mainstream and also exploring with children and their parents or guardians around moving to more inclusive provision.

- Developing a culture of continuous improvement in the Special Educational Needs Assessment (SENA) service - Learning from the methodology deployed in the external intervention in A&C combined with experience elsewhere, the programme focus on a series on understanding, measuring, changing and monitoring a series of 'variables' which impact on the main cost drivers, for example the % of referrals able to be supported within an EHCP. By reviewing processes, introducing better Management Information and embedding improvement cycles across all areas of the service with the aim of better understanding of demand and its drivers to improve consistency in the allocation of resources.

36. Each of these activities is firstly underpinned by a well-defined benefits profile that outlines the baseline, target and methodology for calculating the benefit as well a providing robust management information for the programme board and DMT. Secondly a comprehensive communications plan has been designed and is currently being delivered to ensure that each activity is well communicated with schools and partners.

37. The High Needs Development Plan is monitored through the High Needs Block Programme Board where detailed information on savings delivery and actions being taken. The Board also reports to the CFS DMT. Additionally, monthly progress meetings are held with the Director of Corporate Resources and Assistant Director – Strategic Finance and Property.

<u>The Sufficiency Programme</u>

38. In addition to the transformation project a comprehensive sufficiency plan is in place to develop further SEND places commenced in Autumn 2018. The plan is predicated on delivering the right number of places and at the right time, in each locality to meet emerging needs, whilst also enabling the maximum level of inclusion in mainstream schools.

39. The plan so far comprises 35 separate projects including;
    - the development of new resource bases in mainstream schools (to meet Communication and Interaction, and Social Emotional and Mental Health needs),
    - the expansion of existing special schools,
    - the development of three new schools in Barwell, Blaby and Shepshed to meet the needs of C&I and SEMH pupils.
    - the re-location of Oakfield Short Stay school to new locations in Barwell and Shepshed to facilitate the Blaby special school
    - the provision of a new Hearing Impaired Unit in Oadby.

40. By the Autumn term the plan will have provided an extra 459 SEND places, with a further 75 to be delivered between 2021and 2023. The 2020/21 capital programme commits £17.78m to the programme. Work is now in progress to develop a second phase of the plan to deliver a business case to support the

delivery of a further 78 places (comprising 5 schemes) at a cost of circa £6million.

41. The additional places provided have been largely taken up by new demand which has limited the ability for places to be taken by pupils moving from higher cost provision as anticipated in the original plan but have helped to restrict further growth in the number of pupils placed in independent provision. However, the places have resulted in cost avoidance estimated to be £5.7m in 2020/21 rising to £8.2m, taking into account start-up costs the overall benefit to the programme is £3.3m in 2022/23 as without the additional places higher cost independent provision would have been required. Analysis is underway to ascertain any financial impact arising from changes to opening dates for the new provision and occupancy levels is currently being undertaken

42. The new resource bases are underpinned by robust legal agreements to ensure adequate financial and other controls exist, and responsibilities for delivery and quality of provision are made clear. Detailed work has also been commissioned to develop a forecasting model to help determine the future demand for SEND places, taking account of demographic changes and new housing growth to inform future planning.

Conclusions

43. Whilst the High Needs Development Plan is delivering savings and efficiencies it does not recover the financial position. Whilst it may be possible to identify further actions that will deliver additional savings, with placement expenditure the majority of high needs spend, population growth and the concerns set out in this report with regard to the national SEND system it is difficult to envisage how the issues can be resolved in the medium term without national changes to the overall SEND system.

44. The High Needs Block Programme Board continues to challenge all aspects of the Development Plan and explore additional areas for additional savings and efficiencies and seeks to identify and establish best practice across services.

45. The business case for the High Needs Development Plan was externally reviewed in December 2018 which made a number of recommendations that have informed its development and delivery. Management information has been developed to allow performance to be monitored against all aspects of the plan with growth and savings being subject to regular review. Growth in the number of EHCP's continues and is greater than that envisaged at the commencement of the programme of work. However growth currently is within mainstream schools at lower costs whilst the number of higher cost independent special schools has plateaued and is expected to show reductions over the medium term.

46. The medium term financial position is recast on a quarterly basis to reflect the most recent service patterns and trends. However a further external review and

challenge to review the actions and assumptions within the plan may be beneficial to give independent assurance on its risks and opportunities.

47. In its response to the growing SEND crisis the DfE launched a review of the 2014 SEND reforms in 2019, , a key strand of the review is considering how current accountability and funding structures influence cross sector working. however, this review has not yet reported and nationally concerns about the sustainability of the current system and its funding continue to grow. The DfE in their response to the Education Committees report on SEND the DfE state that the SEND system must improve, the response identifies a number of areas for improvement but it is unclear when, or if, these will be delivered.

Officers to Contact

Jane Moore, Director of Children and Family Services
Tel: 01163052038
Email; Jane.More@Leics.gov.uk

Paula Sumner, Assistant Director, Education and SEND
Tel: 01163059614
Email; Paula.Sumner@Leics.gov.uk

Jenny Lawrence, Finance Business Partner
Tel: 01163056401
Email; Jenny.Lawrence@Leics.gov.uk