

**SCHOOLS FORUM**  
**Resetting the SEN Finance System**  
**18 June 2024**

<b>Content Applicable to:</b>		<b>School Phase:</b>	
Maintained Primary and Secondary Schools	X	Pre School	
Academies	X	Foundation Stage	X
PVI Settings		Primary	X
Special Schools / Academies	X	Secondary	X
Local Authority	X	Post sixteen	X
		High Needs	X

**Purpose of Report**

<b>Content Requires:</b>		<b>By:</b>	
Noting	X	Maintained Primary School Members	X
Decision		Maintained Special School Members	
		Academy Members	
		All Schools Forum	X

1. This report sets out information on the intention of the Local Authority to consider a different approach to the calculation of the Notional SEN Budget for 2025-26. Secondly, to develop an approach to enable a Schools Block Transfer of funding to High Needs for 2025-26, both of which to be co-designed with schools and driven by an approach to ensure that funding is invested in the most effective way to achieve the best possible outcomes for Leicestershire children and young people.

**Recommendations**

2. That Schools Forum note and comment on the content of this report.
3. That Schools Forum nominate a member to become a representative on a SEN Funding Review Group.

**Background**

4. Leicestershire has been overspending on the High Needs Dedicated Schools Grant for several years. Whilst the financial position improved from that originally forecast for 2023-24 a deficit of £5.654m was recorded. The cumulative overspend on High Needs is forecast at £58.2m for 2024-25 rising to £103.3m in 2027-28.
5. Leicestershire embarked on the ambitious Transforming Special Needs and Inclusion in Leicestershire (TSIL) programme to influence and reduce future growth in demand and cost as well as develop services and support for children with Special Educational Needs & Disabilities (SEND). The first phase of the programme is almost complete, and

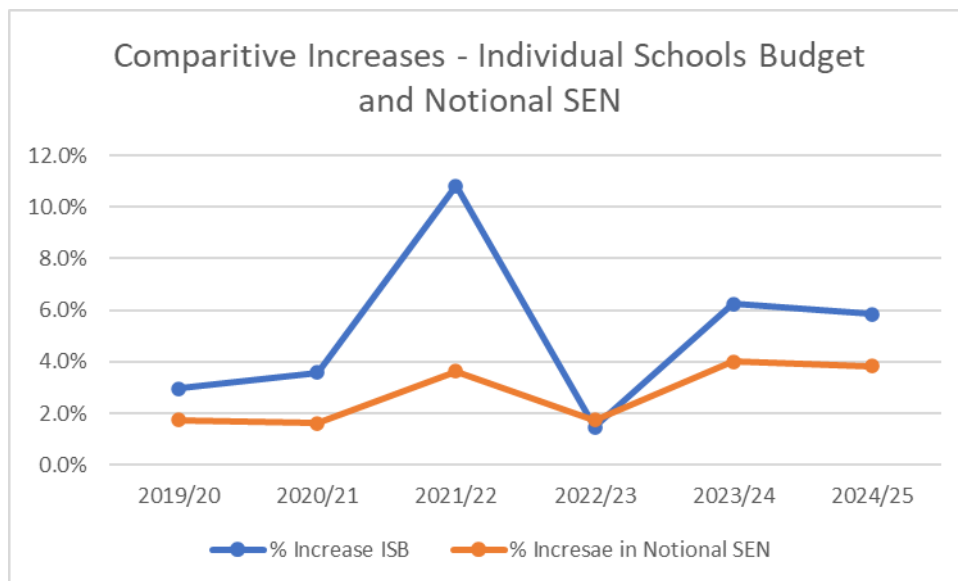
the programme is now moving to sustained and continuous improvement. In the complex SEN environment, the impact of TSIL is positive, and as changes are fully embedded into practice and culture further benefits are forecast for the future. Where benefits can be quantified and tracked these are included within the financial plan, but as the financial position shows these are not sufficient to fully recover the financial position which remains unsustainable.

6. For the Local Authority, the financial position worsens further in March 2026 when a nationally implemented accounts override is expected to cease, and all local authorities will be required to set aside cash reserves to effectively fund the deficit.
7. The SEN system established by the Children's Act 2014 is exceptionally complex, and the relationship between schools and local authorities can be opaque and subject to significant external influences and pressures, which the TSIL programme, in some respects, has sought to address. Further complexities are within the SEN funding system with both schools and local authorities being funded for aspects of the SEN system, with local authorities bearing the significant costs of pupils where mainstream schools may not be able to meet needs.
8. Nationally, many local authorities transfer funding from the School Block to High Needs with the support of their schools and Schools Forum, some of which undertake a transfer annually with some higher than 0.5%, with the permission of the Secretary of State (SoS). Leicestershire has consulted on a transfer on two separate occasions, the latter being for 2023-24 where a Disapplication was sought as School Forum did not approve but was refused by the SoS.
9. Leicestershire is within the Department for Education's (DfE) Delivering Better Value in SEN (DBV) programme as an authority with a high Dedicated Schools Grant (DSG) deficit. Inclusion in the DBV or a Safety Valve Agreement is driven by the level of DSG deficit, which in Leicestershire is £9.7m less than the high needs deficit because of Schools Block funding being held for future school growth. The focus of the programme is to deliver a balanced high needs budget where expenditure can be fully contained within the grant, which is not the case in Leicestershire. Whilst there have never been any published criteria for a Safety Value Agreement it is thought to be c10% of DSG, for 2024-25 it is 7% and is expected to hit 10% during 2026-27.
10. During 2023-24, the DfE, together with CIPFA, have scrutinised Leicestershire's financial plan, including forecasting methodology applied to cost and demand growth, the actions being delivered through TSIL to reduce that growth and to identify actions not currently being undertaken so therefore not part of the plan. The one significant action identified by the DfE not currently within the Leicestershire plan is a Schools Block Transfer. The DfE is keen for Leicestershire to explore this as an option.
11. A review of Notional SEN was presented to Schools Forum in November 2023. Since this point, the DfE have issued 2022-23 expenditure data from maintained schools and academies and the analysis has been updated.
12. The updated Notional SEN can only present a snapshot of a position at a given point of time, taken together with DfE Benchmarking data showing Leicestershire aligning much less of school formula budget to Notional SEN than many other local authorities. Given the DfE's view that Leicestershire should consider a school block transfer it feels timely to review the SEN funding system in its totality. This would enable us to explore if the balance of funding is appropriate and consider whether there are opportunities to use funding differently to invest in local systems to further drive down cost and demand.

## **Notional SEN**

13. A review of Notional SEN was presented to Schools Forum in November 2023 for noting. Since this time, the DfE have published financial data from 2022-23 which has allowed for a closer comparison between budget, SEN position and the overall financial position of schools. Whilst there remains a time lag in the comparative data, i.e., 2022-23 expenditure against 2023-24 budgets, it does bring together a wealth of information to produce a snapshot of the overall position, although a like for like comparison is not possible given the different accounting periods for maintained schools and academies. All data is from DfE sources – Consistent Financial Reporting for maintained schools, Academy Accounts Returns and the data with the database constructed by the DfE from the October 2022 census used for 2023-24 school budgets.
14. The DfE published benchmarking data on Local Authority calculations of the notional SEN budget for 2022-23, no data is currently available for 2023-24. This shows that Leicestershire:
  - is one of 30 (20%) local authorities allocating less than 7.5% of the school budget to notional SEN. The higher the percent allocated to Notional SEN, the higher the expectation of local authorities of the SEN provision they should make from their school budget. The average allocation is 10.8%.
  - uses just three of the 10 National Funding Formula (NFF) factors (basic entitlement, deprivation, English as an additional language, looked after children, prior attainment, mobility, lump sum, sparsity, minimum per pupil funding unit, minimum funding guarantee) attributed to the notional SEN budget across other authorities. The DfE have invested heavily through increased funding allocations for deprivation indicators i.e., free school meals deemed to be a proxy indicator of SEN, yet the basis of the Notional SEN budget remains unchanged.
15. Whilst no action was proposed from the previous November 2023 analysis, in the context of the overall SEN funding system and the potential for an approach to a block transfer it would be appropriate to review both the apportionment of the Notional SEN budget and the expectations of its use within schools.
16. The overall picture of the sufficiency of the Notional SEN budget is not materially changed with a Notional SEN budget of £36.3m and contributions to Element 2 for pupils with EHCPs at £21.7m. The NFF uses factors such as Free School Meals, Deprivation, and low prior attainment as proxy indicators of SEN, but no correlation is apparent between incidence of SEN and Notional SEN budget. Additionally, the data identifies 15.9% of pupils recorded as SEN Support or with an EHCP yet the Notional Budget accounts for just 7.4% of the overall Leicestershire NFF.
17. Analysis has been undertaken to determine any correlation between the growth in the Individual Schools Budget (ISB) and the level of Notional SEN. It can be seen in the following chart that the ISB has risen proportionally more than the Notional SEN Budget. Over the same period, 2018-19 to 2023-24:
  - The overall pupil population has increased by 0.2%.
  - The total number of packages funded for all pupils with SEN has increased by 89%.
  - The number of packages funded for pupils with SEN in mainstream schools has increased by 147%.

- The number of packages funded for pupils in special schools has increased by 47%.
  - The number of packages funded for pupils in Independent Special Schools has increased by 47%.
18. Overall, mainstream schools have received a lower increase in Notional SEN than in core funding yet are supporting significantly higher numbers of pupils receiving Element 3 funding. With 15.9% of pupils on the October 2022 Census recorded as having an EHCP or at SEN Support, this suggests the Notional SEN Budget should be £77.3m, which would be an increase of 113% from the 2023-24 budget of £36.3m, and the balance of funding between schools and the Local Authority, and how it is used, needs to be reset in order to deliver better outcomes for children and young people.



### **Transfer of Funding from Schools Block to High Needs**

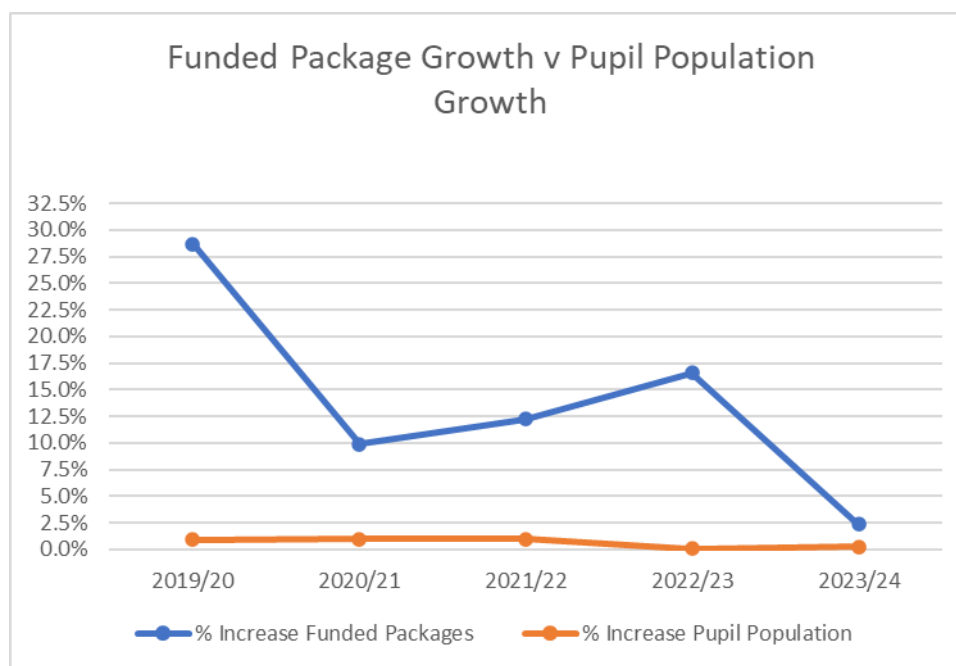
19. Local authorities are currently able to transfer 0.5% of the Schools Block DSG following consultation with schools and with the approval of the Schools Forum. If Schools Forum do not approve or a Local Authority wishes to transfer more than 0.5%, permission is required from the SoS, formally known as a Disapplication.
20. In considering a reset of the SEN funding system, consideration also needs to be given to a Schools Block to High Needs Block Transfer for 2025, and whether a targeted and centralised approach at investments in specific actions or pupil cohorts could have a bigger impact, achieve better outcomes for children and young people, and be a more efficient use of funding. Aligning this to the system reset achieved through the delivery of the TSIL programme and the continuous improvement which is following could deliver a more sustainable system in Leicestershire that fully links funding, responsibilities, and improved outcomes.
21. Leicestershire's participation within the DfE's DBV programme has required the submission of the Council's DSG recovery plan, which is the High Needs Financial Plan previously presented to Schools Forum and is included below for completeness.

	2024/25 £,000	2025/26 £,000	2026/27 £,000	2027/28 £,000
Grant Income	-109,176	-112,430	-115,781	-119,233
Placement Costs	120,579	133,297	147,279	162,705
Other HNB Cost	10,679	11,279	11,279	11,279
Commissioning Cost - New Places	162	37	0	0
Invest to Save Project Costs - TSIL	986	986	986	986
<b>Total Expenditure</b>	<b>132,406</b>	<b>145,599</b>	<b>159,544</b>	<b>174,970</b>
<b>Funding Gap Pre Savings</b>	<b>23,230</b>	<b>33,169</b>	<b>43,763</b>	<b>55,737</b>
TSIL Programme Defined Opportunities	-3,788	-10,976	-19,195	-27,666
Increase in Local Specialist Places	-2,480	-5,995	-9,868	-13,803
<b>Total Savings</b>	<b>-6,268</b>	<b>-16,972</b>	<b>-29,063</b>	<b>-41,469</b>
<b>Annual Revenue Funding Gap</b>	<b>16,963</b>	<b>16,197</b>	<b>14,700</b>	<b>14,268</b>
<b>Cummulative High Needs Deficit Brought Forward</b>	<b>41,187</b>			
<b>Cummulative High Needs Funding Gap</b>	<b>58,150</b>	<b>74,347</b>	<b>89,047</b>	<b>103,315</b>
Surplus (-ve) / Deficit Other DSG Blocks	-9,663	-9,660	-9,160	-6,560
<b>Dedicated Schools Grant Surplus (-ve) / Deficit</b>	<b>48,487</b>	<b>64,687</b>	<b>79,887</b>	<b>96,755</b>
<b>High Needs Spend as % of High Needs DSG</b>	<b>122%</b>	<b>130%</b>	<b>139%</b>	<b>148%</b>
<b>Surplus / Deficit as % of Total DSG</b>	<b>7%</b>	<b>9%</b>	<b>11%</b>	<b>13%</b>

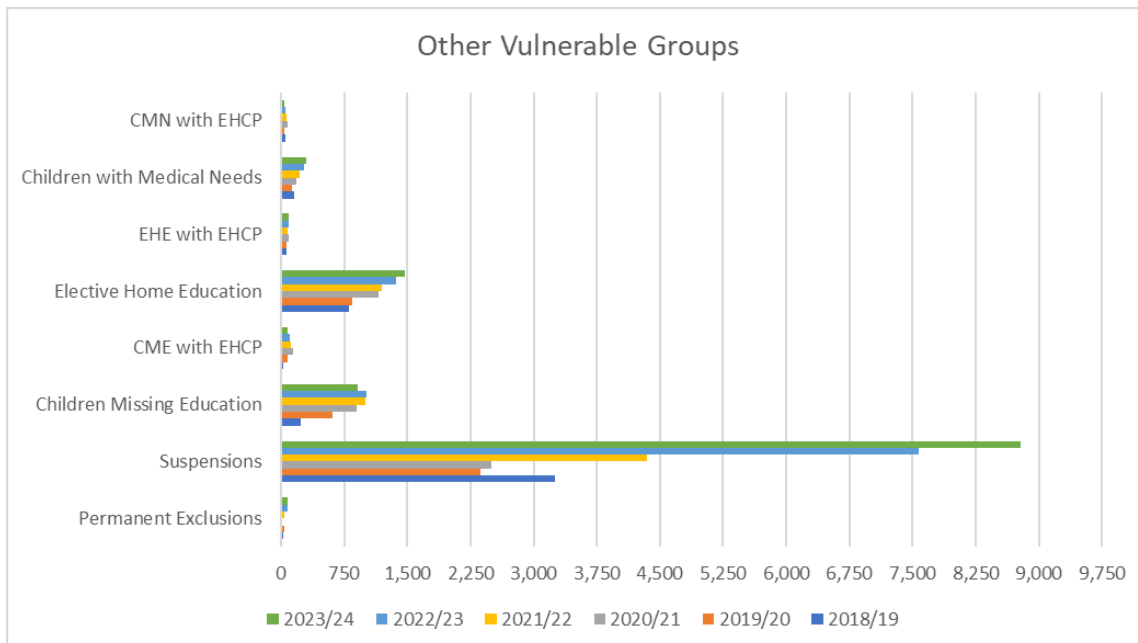
22. The high needs financial plan has been subject to challenge by the DfE through both a SEN advisor and a financial advisor from the public sector accountancy body CIPFA. They have reviewed the assumptions built into the plan on growth and the basis of the savings i.e., the expected reductions in future cost and demand through the TSIL programme and the expansion of lower cost local specialist places. However, the plan does not achieve an in-year balanced budget position which is the aim of the DBV programme.
23. The focus of quarterly meetings with the DBV is on delivery of the financial plan, but also on what further mitigating actions can be delivered to achieve a balanced budget position. The DfE is keen for Leicestershire to consider a transfer of funding from the Schools Block to the High Needs Block.
24. A considerable proportion of local authorities have and continue to undertake such block transfers. In 2022-23, 76 local authorities successfully transferred £97m from the schools to the high needs block. In 2023-24, 67 authorities transferred £101m. Firstly, this suggests that some authorities, through a block transfer and the efficient use of that

funding, have successfully addressed their high needs deficit position. Secondly, it suggests that the financial position is worsening for some authorities given a smaller number of authorities transferred a higher amount. Whilst this is hard to validate given that the DfE have recently stated that some authorities have fully delivered their Safety Valve Agreements, that some authorities have been moved from DBV to Safety Valve concurs with the direction of travel. Whilst there is no stated level of deficit that triggers a Safety Valve Agreement, a review of published agreements suggest that c10% overall DSG deficit and Leicestershire hits that threshold in 2026-27.

25. Leicestershire has invested significantly in SEN provision since 2018-19 with investment of £26.5m to deliver an additional 708 specialist places. In addition, DfE funding has been secured to deliver two further special schools, Bowman in Shepshed and Farley Way in Quorn, which add a further 144 places and has required £2.8m of Leicestershire capital to facilitate the build.
26. Leicestershire has also invested revenue funding to deliver systemic changes in the SEND system through the former High Needs Development Plan and the TSIL programme, which is now being moved to a continuous improvement phase. This has enabled the Local Authority, alongside schools and other stakeholders, to co-produce several system changes including the development of the Best Practice Toolkit, tools to enable effective sufficiency planning, streamlining decision-making, and additional capacity with a focus upon the voice of children and young people and their journey through the SEN system. This leads to the co-production of sustainable improvements and ensuring effective and needs led decisions on the most appropriate provision based on the needs of children and young people that meets parental expectation.
27. However, despite this significant capital and revenue investment, the number of EHCPs continue to grow at a significantly higher rate than the wider pupil population. Whilst system wide change has, and rightly, continued to be based on pupil outcomes, one element of the SEN system that has not been considered is funding and whether a more centralised and targeted approach could deliver a sustainable impact in a cost-effective way that could better meet pupil outcomes and achieve a better financial position.



28. The following chart tracks the numbers of pupils within other vulnerable cohorts that are supported in different places within the education system, such as through services for pupils excluded or at risk of exclusion, elective home education, those with medical needs, and children missing education, all of which can be viewed as indicators of how inclusive the education system may be.



**Note:** Data is recorded by academic year, so 2023-24 is partial to 05/06/2024.

29. Overall, whilst numbers in some cohorts appear to be minimal the trends in numbers from 2018-19 to June 2024 are significant:
- Permanent exclusions: +148%
  - Suspensions: +170%
  - Children Missing Education: +178%
  - Elective Home Education: +82%
  - Children with Medical Needs: +99%
30. To respond, particularly in respect of the increase in the rising number of permanent exclusions and suspensions resulting in increased caseloads across the Leicestershire Secondary Education Partnerships (SEIPs), additional investment through an increased budget allocation has been made of c£1.5m per annum.
31. To explore options for a more centralised approach to investment in the SEND system, funded through a transfer of funding from the school block to high needs, a group of Headteachers have been drawn together to begin to work through the complexities. The purpose of this group will be:
- to identify areas where pooling resources could have a sustainable beneficial impact upon pupil outcomes.
  - to identify targeted activities that could be undertaken either within groups of pupils, across pupil cohorts, or across schools where impact could be

enhanced through the application of economies of scale in the deployment of skills, other resources, or the deployment of funding.

- to identify barriers to the efficient support of children and young people with SEN in schools and where targeted investment could deliver sustainable improvement in pupil outcomes.
- to consider whether an area-based approach to investment managed, moderating, and evaluated at local level could allow for pupil needs to be met locally and therefore reduce the demand for EHCP assessments. This would free capacity in both schools and the Local Authority that could be further reinvested in provision.
- to consider options to align and maintain the Notional SEN budget to the incidence of SEN within schools within the constraints of the NFF.
- to consider the impact to individual or groups of schools arising from a school's transfer to high needs block.
- to consider how schools should approach the management of the Notional SEN budget and be accountable for its use.

In addition to informing the above, the group will act as a critical friend to the Local Authority in formulating proposals for formal consultation with schools and reporting back to Schools Forum in the autumn, which in turn will inform Local Authority decision making.

32. Schools Forum are asked to nominate a member to join this group.
33. Leicestershire has proposed and consulted with school on two separate occasions on a Schools Block transfer:
  - 2020-21 – consultation was undertaken on a 0.5% transfer. Schools were not supportive, and Schools Forum did not approve. This was proposed at the point the former High Needs Development Plan was being formulated, as such no Disapplication was submitted to the SoS.
  - 2022-23 – consultation was undertaken on a 0.5% transfer. Schools were not supportive, and Schools Forum did not approve. A Disapplication was sought from the SoS who did not approve the transfer. The basis for turning down the request was based on the following: *“We have assessed your management plan and recognise it provides a high-level strategic proposal of how you will reduce your overall deficit. However, the proposals did not adequately demonstrate detail of how the transferred funding would be used to mitigate the pressures within the high needs block or reduce the DSG deficit through future savings.”*
34. It is evident that the DfE are now considering schools to high needs block transfers not just as a financial transaction but another tool in the systemic changes needed within the SEN system. For 2024-25, all disapplications submitted to the DfE, where Schools Forum did not agree a transfer or a transfer more than 0.5%, were agreed where it was clear that the case for a transfer demonstrated reinvestment in provision and had a beneficial impact on outcomes for pupils and schools.
35. In considering any transfer there are two issues that have the potential to create barriers and will need careful consideration:



- National Funding Formula Protections – within the NFF there are two levels of protection 1) the Minimum Per Pupil Funding Level is a guarantee that all schools receive a given amount per pupil and 2) the Minimum Funding Guarantee which limits any budget reduction from change in pupil characteristics. As a result, not all schools would contribute to a transfer.
- Investment – the incidence of SEN is not equal across all schools. Investment would need to be targeted where the impact on future costs and demand would have the most impact. As a result, investments may not be equal across schools, nor equal to an individual school's contribution.

### **Conclusion**

36. There is an extricable link between having clear expectations of the use of the Notional SEN budget alongside High Needs DSG. Both are funding targeted at meeting the needs of children and young people with SEN, and ensuring they have the best possible educational experience, matched to their needs, which maximises their potential.
37. The TSIL programme is having a positive impact on the delivery of SEN services, but further action is required to ensure that Leicestershire has an effective and financially efficient SEN service that meet the needs of schools, children and young people, and the Local Authority that results in improved outcomes and delivers a better financial position. It is timely to consider the finance element of the SEN system.

### **Resource Implications**

38. Resource implications can be expected to be identified for individual or groups of schools throughout the process of considering the approach to a school block transfer and any change to Notional SEN. These will be kept in mind by the working group and through reports to Schools Forum. Strategies to address any such implications will be formulated through the working group as necessary and appropriate to the overall position for Leicestershire schools.

### **Equal Opportunity Issues**

39. As above. Any Disapplication request submitted to the SoS is required to have an Equalities Impact Statement.

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