

Schools Forum

3rd May 2016

High Needs Consultation

Introduction

1. This paper provides the key headlines coming out of the consultation on the High Needs Funding Formula and Other reforms published by the Department for Education (DfE) on 7 March 2016.
2. The full consultation documents cover 70 pages and can be found at www.consult.education.gov.uk.
3. The chapters in this report relate to the chapters within the relevant consultation documents.
4. The high needs reforms consultation like the schools national funding formula consultation, is also the first stage of two stages of consultation. This first phase covers high level principles, key proposals and options around:
 - a. allocating high needs funding to local authorities on the basis of a formula consisting of a number of factors
 - b. improving the funding arrangements and guidance to help local authorities, early years providers, mainstream schools, colleges and other institutions with students aged 16-25 who have SEN and disabilities.
5. The second phase of the consultation will set out detailed proposals on the formula factor weightings, the impact on local authorities and transitional protection.
6. Apart from including the distribution of funding for Alternative Provision (AP) in the national to local government funding formula, there is no proposal to change the way that AP is funded locally but the government will keep this under review.

Chapter 1: Context of the Proposed changes

7. The Children and Families Act 2014 introduced a significant set of reforms to improve provision for children and young people with SEN and disabilities and funding changes have played a part in supporting the outcome of these reforms.

8. The high needs funding block is allocated to local authorities as part of their Dedicated Schools Grant (DSG). Local authorities decide how that funding is used, in consultation with their Schools Forum. It covers funding for children and young people from 0 to 25 years of age.
9. High needs expenditure includes:-
 - a. funding for places in specialist and post-16 institutions (e.g. special schools, special post-16 institutions and pupil referral units)
 - b. top-up funding for individual pupils and students with high needs, including those in mainstream schools and early years children
 - c. services that local authorities provide directly, or through contracts or SLAs with others.
10. Part of the high needs block is retained by the Education Funding Agency (EFA) for the place funding paid to colleges and other post-16 institutions. Some of the place funding is included in local authorities' initial DSG allocations and then deducted by the EFA to pay the funding direct, for example to academies.

Chapter 2: Why changes are needed

11. The previous coalition Government acknowledged that further changes to the distribution of high needs funding were required and commissioned ISOS Partnership to undertake research.
12. ISOS made 17 proposals on how the SEN funding system might be improved, falling into 3 broad categories:
 - a. fairer and more transparent allocations - a more formulaic approach to distributing high needs funding from national to local level
 - b. better communication
 - c. better decision-making.
13. The Government believes in particular that the distribution of funding between local authorities, based on historical spending patterns, is increasingly misaligned to needs across the country and therefore is not fair.
14. The ISOS research showed that children and young people with a similar description of needs and circumstances attract very different levels of funding in different local authorities.
15. There is also considerable variety in the way different areas make special educational provision, organise their SEN services and spend their high needs budget.

16. The proposals within the consultation document are, from 2017-18, to move to a distribution of high needs funding from central government to local government that is more formula-driven, using proxy indicators of need.
17. The Government also proposes improvements to current funding arrangements at a local level, including changes to the way funding is distributed to various types of institution.
18. The reform proposals are underpinned by the following 7 principles for a funding system:
 - a. supports opportunity
 - b. fair – objective measures
 - c. efficient – delivers best outcomes gets funding to the front line – decision making level transparent – easy to understand and justify
 - d. simple – balanced with accuracy
 - e. predictable – ability to plan ahead - smooth transition to new funding levels.

Chapter 3: Distribution of high needs funding to local authorities

19. Local authorities are responsible for both assessing individuals' SEN and for commissioning provision to meet those needs. To ensure an efficient use of resources in managing the statutory assessment and planning process, the Government is proposing a system that continues to initially distribute the majority of high needs funding to local authorities rather than directly to schools and other organisations.
20. The Government is proposing a high needs formula that is based on proxy measures rather than based on the number of statements of SEN and Education, Health and Care (EHC) plans which local authorities have issued. This Government argues this avoids a perverse incentive to identify a higher level of need than is appropriate and will continue to allow local authorities discretion to provide high needs funding without going through the statutory assessment process, for example to meet urgent need.
21. The Government has used the ISOS research as a starting point for the design of the formula for distributing high needs block funding to local authorities.
22. The proposed high needs funding formula is shown in the table below:

Basic unit of funding for pupils and students in specialist SEN institutions	
Population factor	
Health and disability factors:	Disability living allowance
	Children in bad health
Low attainment factors:	Key Stage 2 low attainment
	Key Stage 4 low attainment
Deprivation factors:	Free school meals
	IDACI
2016-17 spending level factor	

23. **Basic unit of funding per pupil/student** – an amount for each child or young person in a special school, special academy or special post-16 institution that is funded from the high needs block. There would be an adjustment to compensate local authorities that were net ‘importers’ of pupils and students from other areas into their schools, academies and colleges. The formula would also make adjustments in the case of authorities that were net ‘exporters’.
24. The per-pupil/student amounts would be determined each year on the basis of pupil and student numbers from the prior academic year.
25. **Population factor** – proposing a substantial child population factor to reflect that within any size of population there is a minimum number of children and young people with high level SEN and disabilities. The proposal is to base the factor on the number of children and young people aged 2 to 18.
26. **Health and disability factor** – in line with the ISOS research the Government’s proposal is to include ‘children not in good health’ and disability living allowance (DLA) indicators within the formula as they say they provide a good correlation with the health and disability aspects of SEN.
27. **Low attainment factors** – proposing to use pupils not achieving level 2 in reading at the end of Key Stage 2 and pupils not achieving 5 A* - G GCSEs at Key Stage 4, or equivalent standards as changes are made, i.e. to reflect the new Key Stage 2 tests.
28. **Deprivation factors** – following ISOS research, the proposal is to use both free school meals (FSM) and income deprivation affecting children index (IDACI) measures. This is in line with the proposals for the schools national funding formula. It is unclear if the proposal is to use current FSM eligibility or an Ever 6 FSM measure.
29. **2016-17 spending level factor** – to avoid sudden changes to high needs budgets as a result of the introduction of the new formula. Introducing changes gradually is a key priority of the Government. It is proposed to include an element of current spending on SEN in

the formula based on 2016-17 planned spending levels, for at least the next five years.

30. Of the above formula factors the most relevant to alternative provision (AP) are deemed to be overall pupil population and deprivation. The government proposes to use the population and deprivation factors in the allocation of AP funding to local authorities. Because of the different ways that local authorities manage AP the Government recognises that local authorities will need time to discuss the implications of a new national formula. They are therefore proposing to include an element of 2016-17 planned spending on AP for at least the first five years as well.
31. The Government is exploring the possible use of hospital inpatient data to help inform the distribution of funding to local authorities for hospital education. In the meantime however they continue to distribute hospital education funding based on current spending levels and any adjustments needed to reflect changes in hospital provision.
32. To reflect the higher costs incurred in some parts of the country the proposal is to include an area cost adjustment in the formula. There are 2 options, a general labour market cost factor or a hybrid factor. The hybrid area cost adjustment consists of 2 elements: teacher pay costs and non-teaching staff costs. The hybrid ACA was designed and used in order to reflect that the costs of teachers are lower in high cost areas than the general labour market (GLM) indices would suggest.
33. The proposal is to limit any year on year reductions for each local authority by providing an overall minimum funding guarantee protection.
34. To support local authorities and institutions in reviewing and developing high needs provision the government is proposing the following 5 main forms of help including the scope for significant extra investment that enables them to reduce future costs – an invest to save approach:
 - a. capital funding through the free school programme
 - b. capital funding to support the expansion of existing provision
 - c. collaborative working between local authorities
 - d. changes to encourage schools and colleges to include pupils and students with SEN
 - e. support for reducing costs – sharing best practice and support and guidance tools on efficiency.

Chapter 4: Changes to the way high needs funding supports institutions

35. The consultation document sets out proposals for improvements to the current funding arrangements at local level – how the funding is distributed to providers.
36. There are no plans for any fundamental changes to the way that schools are funded for their pupils with SEN and disabilities. The ISOS research concluded that the current concept of a notional SEN budget should be removed because local authorities calculate it in varied ways and the budgets do not necessarily correlate well with the needs in schools.
37. The Government's proposal however is to retain the current concept of the notional SEN budget for the time being whilst they work with SENCOs, school business managers and head teachers to find out how best to help schools decide how much to spend on SEN support.
38. In relation to the local offer, the consultation seeks views on what should be included in national guidelines to create more consistency in what mainstream schools offer across the country.
39. The Government proposes a small change in the way that special units and resourced provision attached to mainstream schools are funded. Currently these units are funded at £10,000 per place plus top-up. The pupils educated in those units are excluded from the calculation of the schools' local formula budget. In future, the proposal is that they receive the per pupil amounts due to the school by including the pupils in their census, plus place funding of £6,000.
40. This change would bring pre-16 funding in line with the way that post-16 students with high needs in these units are currently funded.
41. Local authorities currently have flexibility to retain funding as part of their high needs budget for the purposes of encouraging collaboration between special and mainstream schools to enable children with SEN to engage in activities at mainstream schools. The Government intends to continue to allow this flexibility and welcomes examples of good practice in this area.
42. Local authorities can also retain funding in their high needs budget to support schools that are particularly inclusive and have a particularly high proportion of pupils with high needs which may be of a type that is not fully captured by the proxy measures in the formula. ISOS research showed a lack of consistency and effectiveness in local authorities' use of this funding. The Government agrees that clearer guidance would be useful.

43. The Government welcomes examples of good practice as part of the consultation process.
44. Currently maintained special schools, special academies and non-maintained special schools receive funding of £10,000 per place from either the local authority or the EFA, plus top-up based on pupils needs. However, provision in independent schools is funded wholly by local authorities. From 2017-18 the proposal is to offer independent special schools on the section 41 approved list the opportunity of receiving a grant from the EFA for the place funding at the rate of £10,000 per place. This would reduce the top-up funding required from local authorities.
45. In relation to early years, ISOS research concluded that local authorities should work with early years' providers to establish clear expectations about the support pre-school settings are expected to provide from within their core funding, and the circumstances in which additional advice, training or resources would be provided. The Government believes this should be done as soon as possible if not already done.
46. Later this year the Government will consult on specific measures that would help local authorities improve the support provided to early years' settings. In the meantime local authorities are allowed to use early years and high needs allocations to provide SEN support to early years' children.
47. In relation to post-16, ISOS proposed that:
- a. mainstream post-16 providers should receive, through the post 16 funding formula, the funding that is currently paid to them as place funding of £6,000 per place
 - b. local authorities should have a role in determining approaches to distributing additional funding outside the formula to providers who admit a higher proportion of students with SEN, and to incentivise more inclusion
 - c. all specialist places in special post-16 institutions should be funded at £10,000 per place.
48. The Government considers that there is merit in these proposals and that these changes would complement others outlined in the consultation to bring better alignment throughout the funding system and would encourage better partnership working between local authorities and institutions as well as discourage over-identification of students with high needs.
49. The Government considers that a formulaic allocation would be most appropriate for institutions which have a small number of students with high needs. This would reduce the bureaucracy of collecting information on places required for very small numbers of

students. They also consider that the proposals would fit well with the way they are proposing to allocate funding to local authorities.

50. The Government is proposing to introduce the concept of a special unit or resourced provision in FE and sixth form colleges. Such provision would attract funding of £6,000 per place in addition to the amount the national formula allocates for all the college's students. There would need to be a process for collecting information from local authorities about how many high needs places are to be funded each year in these institutions, to inform the EFA's funding allocations.
51. Under the ISOS proposals, provision in specialist institutions that cater wholly or mainly for students with high needs would all receive a flat rate of £10,000 per place as their core funding. A flat rate amount per place would considerably simplify the funding for these institutions. As now, the Government envisages that the number of places to be funded in maintained special schools and special academies would be determined by local authorities as a result of their strategic planning and partnership with institutions. Non-maintained special schools and special post-16 institutions would be funded for their places using the latest available data on student numbers available to the EFA.
52. The Government acknowledges that before endorsing these proposals, FE and sixth form colleges, special post-16 institutions and other post-16 providers will want to know more about how such proposals would work in practice. The results of further work will be shared in the second phase of the consultation.

Recommendation

53. That the Forum note the report.

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