

High Needs Funding Reform Consultation Stage 2 - Closing Date 22nd March 2017

Overall Approach

- 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

Please explain your reasoning and any further evidence we should take into account:

Kent County Council (KCC) believes that the national funding formula system that you have proposed does not strike the right balance between fairness and stability. We think that it rewards some LAs and penalises others at a time when the majority of LAs are experiencing difficulty managing material unfunded budget pressures.

We believe that any new High Needs funding system that is introduced must be sufficient to support the needs of the young people both currently in the system as well as those young people who will access it in the future. The system must therefore be flexible to respond to changes in need.

There still appears to be a lack of evidence as to how the proposed funding aligns with DfE legislation on High Needs pupils, e.g. medical needs and that consideration has been given to tribunal outcomes and case law. The legislation also talks about “parental confidence” and personal budgets, but there doesn’t appear to be any reference to these areas in the consultation.

Further guidance is required on how the funding system will allow for new schools/provision – how will this be funded?

Formula Factors

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 question on this page 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 (Pages 29-30)

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:

We are concerned that if the baseline is taken from 2016-17 it will not reflect local decisions and increases in costs for 2017-18 which most Local Authorities have to manage and fund through transfers from the Schools block.

We believe it to be naive of the DfE to question in the consultation the need of local authorities to transfer further funding from the schools block into High Needs following the rebasing exercise in 2016-17. The High Needs budget pressures experienced by the majority of local authorities is showing no signs of diminishing and therefore it is important that the current historic spend factor, updated for decisions taken locally in 2017-18 is included in the NFF formula.

We are unable to comment whether the 50% proposal appears to be right as there doesn't appear to be any evidence/basis for why the amount is set at 50%?

Basic entitlement - To allocate to each local authority £4,000 per pupil (Pages 30-31)

Allocate a higher amount

The amount is about right

Allocate a lower amount

Please explain your reasoning and any further evidence we should take into account:

We think that this should be set at £10k per pupil to reflect the current costs of those pupils already in Special School provision and also to reflect growth in Special School provision that some authorities have invested capital funding into.

We disagree with the DfE's view that by setting the value at £10k becomes a perverse incentive in the funding system for local authorities to place a higher proportion of their children and young people with special educational needs (SEN) and disabilities in special schools. By only setting it at £4k penalises LAs who have already invested heavily into in-house Special School provision to meet the needs of their local children.

In reality LAs will prefer in-house Special School provision as opposed to most costly independent out of county provision, not only as its better value for money, but also it means SEN children spending less time travelling to school.

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% (Page 33)

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:

KCC has looked over the years at many different data sources for distributing High Needs funding, and the one that we consistently return to as a fair, simple to understand and reasonable basis for distributing funding is pupil population, as it has a high correlation with overall need at LA level. We therefore fully support the inclusion of this factor in the High Needs formula but we would like to see a much larger weighting applied to this factor.

Historically, at a local level, we have found examples of using proxy indicators to identify High Needs pupils problematic so it's vitally important that the correct indicators and weightings are applied.

Free School Meals (FSM) Eligibility – 10% (Pages 33-34)

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:

We have concerns about the use of this factor and in particular over potential turbulence in the data from one year to the next. We therefore believe that if the Department is to include this factor, they should allocate a lower proportion of the total available funding. This view is supported by our response to question 3 above regarding the use of the general population.

Income Deprivation Affecting Children Index (IDACI) - 10%

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:

As above

Key Stage 2 Low Attainment – 7.5% (Page 34)

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:

As above

Low attainment at KS2 – what about early developmental issues? There is no national data set for low incidence needs.

Key Stage 4 Low Attainment – 7.5% (Page 34)

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:

As above

Children in Bad Health – 7.5% (Page 34)

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:

Our understanding is that this data source is not updated that frequently and therefore it will not reflect changes in LA areas. If this is the case, it is a poor source of data and should not be used to distribute funding to LAs.

Disability Living Allowance – 7.5% (Page 34)

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:

We are concerned about the use of Disability Living Allowance (DLA) in the High Needs formula as DLAs are self-referred so in our view this is not a reliable and consistent measure. We are also concerned that some non-physical disabilities take longer to diagnose and therefore believe that the DLA data may not adequately capture such children.

Funding Floor

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. (Pages 35-37)

Yes

No

Please explain your reasoning and any further evidence we should take into account:

Given national pressures on High Needs funding it is unlikely that any LA could manage with lower levels of funding than they currently receive, so we fully support the principle of a floor that results in no LA losing funding from these proposals.

However we are very concerned about the years following the introduction of a High Needs NFF. Our assumption, in the absence of any information to the contrary, is that LAs in receipt of a funding floor allocation will not receive any share of growth funding in future years until the funding floor protection has been eroded (similar to the way Schools MFG protection works). For some authorities this will mean a number of years of absolute flat High Needs allocation at a time of unprecedented growth. Such authorities may have in the past considered transferring DSG from the Schools block to meet such pressure but this flexibility is proposed to be removed. So our view is that this is unmanageable and one that the DfE needs to reconsider further as there is the real risk that we will see a significant number of LAs looking to cut their High Needs costs to remain within budget (which in practical terms is very difficult once children have been placed) and these cuts will affect some of our most vulnerable children.

Furthermore, reductions in High Needs payments to mainstream schools or FE colleges will lead to a less inclusive system, and in turn this will lead to LAs being forced to place children in more expensive forms of provision, putting the High Needs budget under further pressure.

Finally LAs are currently unable to reduce Special School funding rates by more than the - 1.5% MFG, which under normal circumstances is reasonable. Looking ahead the DfE may have to consider removing this protection or allowing LAs flexibility so that we can consider all options for keeping within budget.

We therefore think that the protection offered through these proposals should be strengthened and applied to future years so that not only does it protect the current level of funding, but it allows for annual growth.

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? (Pages 35-37)

Yes

No

Please explain your reasoning and any further evidence we should take into account:

Yes we support the setting of the floor so that no LA sees a reduction in their High Needs funding. Our support is on the basis that LAs will be spending their current High Needs allocation and it's very difficult to change the arrangements for children who are already placed and are settled in their school/educational institution.

Local Budget Flexibility

6. Do you agree with our proposals to allow limited flexibility between schools and high needs budgets in 2018-19? (Pages 41-44)

Yes

No

Please explain your reasoning and any further evidence we should take into account:

Overall we are really disappointed with this proposal. We believe the additional requirement to now get the majority of schools approval is an unnecessary addition as it adds additional bureaucracy at a time of diminishing LA resources. We believe that until the hard NFF is introduced in 2019-20, the transfer of funds between blocks should remain a Forum decision without the need to undertake a costly 'all school' consultation. This facility is an essential option that should be available to LAs to managing the overall DSG system.

Furthermore we believe that the transfer of funding between blocks is a complicated issue, and one that we as a LA have spent time explaining to our Forum each year. Schools are unlikely to have the same level of understanding of the strategic picture.

In future it is vitally important that the Department/Ministers provide adequate annual increases in the High Needs block to fully fund the year on year High Needs pressures faced by LAs. It is completely unrealistic to assume that LAs will top up DSG with Council funds, so in reality LA DSG reserves will very quickly go into deficit.

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 would welcome any initial comments now.

We believe that the Department should ensure that future increases in LA high needs blocks should reflect not only inflationary increases but also pupil growth. If LAs are funded appropriately, there is no need for continued flexibility.

Further Considerations

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

It is proposed that the transfer from the High Needs block into Schools block for pupils in Specialist Resource Provision (SRP) is based on place numbers. We do not think this is fair and would recommend that this adjustment is based on actual pupil numbers in the SRP instead.

Equalities Analysis

- 9. Is there any evidence relating to the 8 protected characteristics identified in the Equality Act 2010 that is not included in the equalities impact assessment and that we should take into account?**

None that we are aware of

DRAFT