

SCHOOLS' FUNDING FORUM

SUBJECT:	DfE consultation on the implementation of new arrangements for reporting deficits of the Dedicated Schools Grant
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<p>SUMMARY OF REPORT:</p> <p>This report summaries the main points of a consultation currently being undertaken by the Department for Education (DfE) which seeks to introduce additional reporting requirements for local authorities whose DSG reserves go into deficit by more than 1%.</p> <p>This report also provides some initial comments that the LA is minded to include in a consultation response, and invites the Forum to provide their own comments for inclusion in a joint response (assuming this approach is acceptable to the Forum and the LA).</p>	
FOR:	Information and Comment

1. Introduction

- 1.1 In July 2018, the Education & Skills Funding Agency (ESFA) published the “Schools revenue funding 2019-20 – Operational guide” which gave us the first indication that the Department intends to tighten up the rules under which local authorities have to explain their plans for bringing the DSG account back into balance.
- 1.2 They announced their intention to consult local authorities during the autumn of 2018 about the detailed implementation of these new rules.
- 1.3 Their consultation was published on 12 November, a copy of which is attached to this paper at Appendix 1. The main points from this consultation form the basis of the rest of this paper.

2 Main points from the consultation

- 2.1 The current rules require local authorities to seek the approval of the Forum in allowing them to carry over the overspend to the next financial year and offset it against the following years DSG allocation. With the introduction of the National Funding Formula, the significant pressure on the High Needs Block and the restrictions on moving money between blocks now in place, these rules are no longer fit for purpose.
- 2.2 The ESFA have acknowledged that the number of LAs now in deficit has substantially increased. The ESFA have therefore decided to tighten up the reporting arrangements. The trigger to require additional reporting is 1% or more of the final DSG allocation (before recoupment of funding for academies). For 2018-19, this calculation is as follows:

Current 2018-19 DSG (before recoupment)	£1,174.4m
1%	£11.7m

- 2.3 We are currently forecasting a deficit at the end of the current financial year of around £12m and therefore it is possible that we would be required to meet this new tighter reporting requirement (if the current proposal is implemented post consultation).
- 2.4 The tighter reporting arrangements would require LA's to produce a recovery plan detailing the steps we will take to provide a statutory service within the annual funding envelope. This recovery plan should be discussed with, and if possible, agreed with, the Schools' Funding Forum.
- 2.5 Ideally the recovery plan should show how the LA intends to bring the overall DSG account into balance within a maximum of three year. This would mean producing a plan that demonstrates;
- a) living within our annual funding envelope, and
 - b) fully repaying the accumulated deficit.
- 2.6 The ESFA recognise that this may prove difficult for some local authorities to demonstrate both elements of this within the three year time period. Where this is the case, they require evidence explaining the problem, and they have indicated that they may accept a recovery plan that leaves some or all of the deficit accumulated to date outstanding. In such a scenario this would mean;

- a) We would still need to demonstrate how we would live within our means and bring in-year spending in line with in-year funding within three years at most, and
- b) Allow the LA to carry forward the accumulated deficit on the DSG reserve, but would **not** require this to be repaid within the three year period. We would need to provide a clear explanation as to why the deficit could not be recovered in the short term and provide thorough evidence to support the proposal. This would also need agreement from the LA Chief Finance Officer (CFO). Examples of types of evidence are discussed in more detail in Appendix 1, and are along the lines of the updates already provided to this Forum and provided to all schools through our most recent consultation.

2.7 The recovery plan could include a decision to subsidise DSG from general Council funding (e.g. Council Tax and Business Rates). The current policy of the Council is to **not** top DSG up with general Council funding.

2.8 There are some minor changes to the statutory reporting which we do not envisage any issues with.

2.9 The consultation closes on 7 December.

3 Proposed Consultation Response

3.1 Our initial thought is one of frustration in that there is very little recognition within these proposals around the underlying causes of the pressure in the High Needs budget, namely:

- a) Significant growth in demand for EHCPs which is largely as a result of the governments changes to the SEN Code in 2014,
- b) A failure to provide adequate annual increases in funding to meet said demand,
- c) Within the overall increase, we are seeing a growing number of pupils with the most profound and complex needs and these children and young people often require the most expensive educational support packages,
- d) The statutory responsibility to support children with EHCP's has increased to the age of 25 (from 18), yet no additional funding has been provided within the DSG,
- e) Placing even increasing restrictions on LAs ability to manage DSG holistically across the LA area (moving between blocks),
- f) Failing to recognise the financial climate LA's are currently operating within, with non-DSG grants having reduced by over 50% since 2010.

- 3.2 It is also disappointing that the ESFA have failed to recognise or acknowledge that imposing such rigid criteria could force some LA's to consider draconian cuts to funding rates which whilst might offer a short term solution will in all likelihood lead to an increase in costs in the medium to long term.

4 Recommendation

- 4.1 Members of the Forum are asked to note the contents of this paper and offer any further comments for inclusion within a joint LA & Forum response to this consultation.

Consultation on the implementation of new arrangements for reporting deficits of the dedicated schools grant

Since the Department for Education introduced the dedicated schools grant (DSG) in 2006, a small number of local authorities have overspent their DSG allocations and found themselves in a cumulative DSG deficit. In these situations, regulations have required that local authorities seek the approval of their schools forum in allowing them to carry over the overspend and offset it against the following year's DSG. Previously, when a local authority found itself to have a DSG deficit of over 2%, we've asked for an explanation, and an account of what its plan is for bringing its budget back into balance.

In the last two years the number of authorities reporting a cumulative DSG deficit has substantially increased. Because of this, we've decided that there is a need to tighten up the reporting arrangements. As announced in July 2018, we will through conditions of grant require a report from all local authorities that have an overall cumulative DSG deficit of 1% or more at the end of the 2018 to 2019 financial year, outlining their recovery plans. The 1% calculation will be based on the latest published DSG allocations for 2018 to 2019, gross of recoupment, as at the end of the 2018 to 2019 financial year.

DSG Deficit Recovery Plans

DSG is a ring-fenced specific grant, provided outside the local government finance settlement. It must be used in support of the schools budget for the purposes defined in the School and Early Years Finance (England) Regulations. As funding is ring-fenced, there is no requirement for local authorities to top-up the grant from general funding or from non-ring-fenced revenue reserves.

For this reason, DfE intends to require all local authorities with a cumulative overspend on DSG provision to produce recovery plans detailing the steps they plan to take to provide statutory services within the annual funding envelope. These recovery plans should be discussed with, and if possible, agreed with, the local schools forum.

Even though there is no requirement to subsidise DSG from general funding, local authorities cannot continue to build up cumulative deficits on DSG provision. In this scenario, local authorities may come under pressure to address the cumulative deficit on DSG provision through drawing on other resources.

Where a local authority has a cumulative overspend, producing a deficit on its DSG reserve, its recovery plan should look to bring the overall DSG account into balance within a maximum of three years. We recognise that this may prove difficult for some local authorities. Where this is the case, we would be open to receipt of evidence explaining the problem, and may accept a recovery plan that leaves some or all of the deficit accumulated to date outstanding. This means that the local

authority would carry forward the amount agreed as a deficit, but we would not require this to be recovered within the three-year period. In all cases, we will expect local authorities' recovery plans to demonstrate how they will bring in-year spending in line with in-year resources within three years at most.

Any authorities that propose to leave part or all of their accumulated DSG deficit outstanding will need to provide a clear explanation as to why their deficits could not be recovered in the short term and provide thorough evidence to support their proposals. They will also need agreement from their Chief Finance Officer (CFO).

We expect a range of evidence to support local authority recovery plans. We would expect this to have already been presented to schools forums. We are aware that DSG deficits are usually caused by high needs pressures, and in these cases the evidence required in the recovery plans will typically include what we already look for in block movement disapplication requests. Authorities will, however, need to address whatever the main causes of overspending on the DSG have been.

The evidence should include:

- A full breakdown of specific budget pressures locally that have led to the local authority incurring a cumulative DSG deficit of over 1%. Where this has resulted from high needs pressures, information should include the changes in demand for special provision over the last three years, how the local authority has met that demand by commissioning places in different sectors (mainstream and special schools, further education and sixth form colleges, independent specialist provision and alternative provision), and if there have been any reductions in the provision for mainstream school pupils with high needs
- Where the deficit has resulted from high needs pressures, an assessment and understanding of the specific local factors that have caused an increase in high needs costs to a level that has exceeded the local authority's high needs funding allocations; and a plan to change the pattern of provision where this is necessary, as well as to achieve greater efficiency and better value for money in other ways; together with evidence of the extent to which the plan is supported by schools and other stakeholders
- A detailed recovery plan showing how the authority intends to bring its DSG reserve back into balance within three years, showing clearly how expenditure will be contained within future funding levels
- If the authority judges that it cannot recover the whole of its cumulative DSG deficit within three years, it must explain the reasons for this. If the authority wishes to defer recovery of some of the cumulative deficit, it must show in its recovery plan that it is able to at least contain its expected in year expenditure within its expected in year DSG income by the end of the three-year period
- Details of any previous movements between blocks, what pressures those movements covered, and why those transfers have not been adequate to counter the new cost pressures
- Assumptions on assumed future transfers between blocks of the DSG, if permitted in future years, and evidence of support from the schools forum and wider school community for these

Reporting DSG Deficits

Following discussion with MHCLG, we believe that there are currently inconsistencies in the way local authorities report their DSG reserves or deficits in the statistical returns that are submitted to

MHCLG. We have agreed that DSG reserves or deficits should in future be reported as a separate ring-fenced reserve in RO returns, and MHCLG will be changing guidance to reflect this. What this means for local authorities is that DSG deficits will not need to be covered by an equivalent amount in local authorities' general reserves. Consequently, new lines will be added to the 2018/19 RO returns and local authorities will be expected to state what their cumulative DSG deficit is every year. This should reconcile to the s.251 returns that local authorities submit to DfE every year. These changes will ensure that the full extent of DSG deficits is reported consistently across the sector on an annual basis.

Next Steps

The consultation period regarding the DSG deficits will end on 7 December, after which we will finalise what needs to be included in recovery plans, setting a submission deadline for June 2019 in respect of deficits at the end of 2018 to 2019. We will be meeting local authority representatives this autumn to discuss the implementation plans and ensure that these changes are introduced as smoothly as possible. Please see the table below to understand how the addition of the DSG deficit recovery plans will fit into the current funding year's assurance schedule:

Action	Deadline
Launch of DSG deficit consultation	Early November
School block movement disapplication deadline	30 November
End of DSG deficit consultation	7 December
Section 251 2019 to 2020 Budget statements submitted	4 March - 30 April
Section 251 budget statement 2019 to 2020 checks to be completed	1 May - 26 June
Deadline for submission of DSG recovery plans	30 June
Review of recovery plans	July-September
Deadline for submission of CFO assurance statement on use of DSG in 2018 to 2019	Mid September

If you have any comments on the proposals please respond to amsqfunding.comms@education.gov.uk by 7 December 2018.