

**SEND Call for Evidence Kent submission v3 Deadline for submission 31 July 2019****Introduction**

The DfE are inviting individuals and organisations to consider aspects of the financial system for special educational needs (SEN) and high needs funding that may be adversely affecting local authorities, mainstream schools, colleges and other education providers in their support for children and young people with SEN, those who are disabled, those who require alternative provision (AP) and those at risk of exclusion from school.

The DfE have received many representations concerning the adequacy of funding for SEN. They understand that the overall amount of funding available is the most pressing concern for many schools and local authorities. They have said that the funding will be carefully considered in the forthcoming spending review. **This call for evidence is intended to focus on a related issue: how the current available funding is distributed, and what improvements might be made in future to secure better outcomes for children and young people with SEN.** It is not therefore about how much funding or about the statutory processes for meeting complex needs.

The governments ambition for those with SEN, those who are disabled, those who require alternative provision (AP) or those at risk of exclusion from school, is exactly the same as for every other child and young person – to achieve well in school and college, find employment and go on to live happy and fulfilled lives. The objectives of the financial and funding system are therefore that it:

- Supports decisions being taken centered around the needs of the child or young person, and what provision will best address those needs;
- Supports early intervention, especially where that can stop problems growing and therefore minimise future costs;
- Facilitates children and young people staying in mainstream schools and colleges, where they can provide suitable provision;
- Avoids creating undue financial pressure for schools, colleges and other providers where they identify a child or young person has SEN or accept a child or young person with SEN on to their roll;
- Delivers value for money in the use of public funding, with appropriate transparency and accountability in the system to secure the best outcomes with the resources available; and
- Helps schools, colleges and local authorities to manage within the resources available to them.

The DfE are concerned that aspects of the current system may be causing:

- Decisions to be taken primarily to avoid financial pressure from falling on a particular institution, by transferring costs elsewhere;
- A continuing drift from mainstream school provision to special schools and alternative provision, which is raising overall costs to the system without improving the outcomes for children;
- Disproportionate pressure falling on some mainstream schools and colleges, especially if they get a reputation for providing good SEN support, or are small and so cannot easily manage exceptional costs within their budget;
- Over-emphasis on securing an education, health and care plan (EHCP) to guarantee a particular level of financial support, rather than on making the special educational provision necessary to meet the needs of the child, with or without an EHCP.

The DfE are looking for evidence about the extent to which these concerns are justified, and any other effects of the current system that are acting to prevent the objectives outlined above.

More details can be found in the following document.



Call for evidence on SEND and AP fundin

The call for evidence takes the form of an on-line response form containing specific questions which can be accessed here:

<https://consult.education.gov.uk/funding-policy-unit/funding-for-send-and-those-who-need-ap-call-for-ev/consultation/intro/>

The questions and our draft responses have been provided below for ease of reference. The final responses will be copied into the on-line response form.

### **Funding for pupils with SEN in mainstream schools**

1. What formula factors are most important in providing schools with enough money to ensure they meet the needs of their pupils with SEN? Please rank the following factors in order of importance with 1 as the most important.

Age weighted pupil unit (AWPU) of funding	2
Low prior attainment	1
IDACI (a measure of area deprivation)	3
Free School Meals (a measure of deprivation relating to individual children)	4
Mobility	7
Lump sum – to recognise fixed costs in a school	5
Other (please specify)	6

Further comments

We believe that there is no single formula factor that accurately measures SEN, and therefore the current use of AWPU alongside a basket of proxy measures to provide SEN funding to schools is the most appropriate method.

As you have acknowledged, the real issue is not the factors, but the amount of funding provided through these factors. The current funding rates are based on historic (2017-18) average levels provided through local authority formula, rather than an objective, activity led costed model. We urge the Department to move to such a model which would allow greater challenge of schools who fail to meet the needs or fail to operate in an inclusive way. Once implemented, the rates should be increased annually to reflect inflation.

### **Funding for SEN through the schools funding formula**

2. Would allocating more funding towards lower attainers within the low prior attainment factor help to better target funding towards the schools that have to make more SEN provision for their pupils?

No or Unsure

3. What positive distributional impact would this change in approach (e.g. creating tiers of low prior attainment) create for mainstream primary and secondary schools?

Very little - whilst we accept that introducing a tiered low prior attainment system may target additional funding to a relatively small group of schools, we believe that the introduction of such a system would add a further layer of complexity into an already complex school funding system. In most schools, we would expect there to be an even distribution of pupils with low prior attainment with some just below the current threshold and some significantly below. In most schools, introducing a complicated tiered approach would do very little to change the overall amount of school funding they receive and therefore we do not support this proposal.

4. Would such a change in approach introduce any negative impact for mainstream primary and secondary schools?

Yes – it would add unnecessary complexity for limited benefit and as an unintended consequence make it even more difficult for schools to understand and predict their future funding. The complexities introduced by Place Plus mean it's extremely difficult for schools to predict their funding from one year to the next and therefore makes strategic medium-term financial planning impossible.

It is worth adding that the Department for Education has spent the last six years simplifying the school budget formula, and with this proposal they are at risk of going backwards and losing some of the benefits arising from this simplification.

### **Targeted funding and support for SEN provision in schools**

5. Please indicate whether you agree or disagree with the statements below, and in the comments box give the advantages and disadvantages of your preferred approach.

- Local authorities should retain the flexibility to develop, in consultation with their schools, their own method of targeting extra SEN funding to schools that need it. [Agree](#)
- Central government should provide more guidance for local authorities on how they should target extra SEN funding to schools, but local authorities should remain responsible for determining the amounts in consultation with their schools. [Agree](#)
- Central government should prescribe a consistent national approach to the targeting of additional funding to schools that have a higher proportion of pupils with SEN and/or those with more complex needs. [Disagree](#)
- Comments

[Local Authorities remain best placed to provide their schools & academies with additional funding for SEN, so long as the correct level of High Needs funding \(responsive to changes in demand and complexity\) is provided by central government.](#)

### **Notional SEN Budget**

6. Is it helpful for local authorities to continue to calculate a notional SEN budget for each school, and for this information to be published, as now?

- [Very helpful](#)

7. For those responding from a school, who in your school(s) is involved in decisions about spending from the school's notional SEN budget?

- Governors
- Headteacher
- SLT
- SENCO
- Teachers

8. Should the national funding formula for schools include a notional SEN budget, or a way of calculating how much of each school's funding is intended to meet the costs of special provision for pupils with SEN?

[Yes](#)

Do you have any further comments on the notional SEN budget?

We think it is important to remind schools that a share of their annual school budget is delegated to them to support children and young people with additional and special educational needs.

We think it would be helpful if the DfE set tighter guidance on the calculation of the schools notional SEN budgets so there was more consistency and alignment between local authority areas.

We are opposed to a system where all SEN funding is held by the Local Authority as in our opinion it would encourage over identification, leading to additional applications from schools for funding.

### **The £6,000 threshold**

9. Please indicate whether or not you agree with the following statements.

- The level of the threshold makes little or no difference to the system for making special provision: it is the level of funding available to schools and local authorities that is crucial. [Agree](#)
- The £6,000 threshold should be lower, so that schools do not have to make as much provision for pupils with SEN from their annual budgets, before they access top-up funding from the local authority. [Disagree](#)
- The £6,000 threshold should be higher, so that schools have to make more provision for pupils with SEN from their annual budgets, before they access top-up funding from the local authority. [Agree](#)
- The operation of the £6,000 threshold should take account of particular circumstances. [Disagree](#)

10. If you have agreed with the final statement in question 9, please indicate below which circumstances you think would be relevant for a modified threshold or different funding arrangement.

Options: Yes/Not Sure/No

- Schools that are relatively small.
- Schools that have a disproportionate number of pupils with high needs or EHC plans.
- When pupils with EHC plans are admitted to a school during the year, which may create unintended consequences.
- Other (please specify below)
- Comments

[In Kent we provide notional SEN top up funding to support schools who are small \(and don't have a large notional SEN budget\) and to those schools who have a disproportionately higher number of pupils with high needs. We believe this facility is an important tool available to local authorities to help support](#)

inclusion in mainstream schools and it should remain. When KCC introduced this, we were challenged by the ESFA as they were unhappy with the high quantity of schools in receipt of notional SEN top up funding. They suggested that this fund should only be provided to small number of schools. We disagreed and we believe this is a one part of the system that supports inclusion in mainstream schools.

We note that nationally the amount of funding provided through this facility is relatively low (c. £57m in 2018-19). We believe the reason behind this relatively low amount of funding is a direct consequence of the inadequacy of the total funding available, leading to local authorities being prevented from utilising or from investing appropriate levels of funding in this facility to incentivise inclusion in mainstream settings.

We believe the notional SEN top up facility is something that should be maintained, and we are puzzled why you don't simply promote the use of this existing facility (with improved guidance and examples of best practice) instead of introducing a more complex threshold arrangement to an already complex funding system?

**Provision for pupils with SEN in mainstream schools (SEN team to consider this section)**

11. If you are responding on behalf of a school, do you have a clear understanding about what provision is "ordinarily available" to meet pupils' special educational needs in your school?

- Yes/No
- Comments

**Even though this question is for schools, I think you should add any comments in here from the LA perspective.**

12 How is this determined? (selective only one option)

- On a school by school basis
- As part of a multi academy trust
- Part of a whole local authority approach
- Part of a cluster of schools

13 How is this offer communicated to parents? (selective all options that are relevant)

- School's published SEN information report
- Published local offer
- Discussions between teacher(s) and parents
- Discussions between SENCO and parents
- Other

- If the offer is publicly available, please provide a web link

14 Does your local authority make it clear when a child or young person requires an education, health and care (EHC) plan?

Yes

15. How is this articulated?

- Published local offer
- School's published SEN information report
- Other publicly available document
- Unpublished local authority policy
- If this is publicly available, please provide a web link

**Funding for pupils who need alternative provision (AP) or are at risk of exclusion from school (Stuart and Celia to consider this section)**

16. Please indicate your agreement or disagreement with the following statements.

Strongly disagree/Somewhat disagree/Neither/Somewhat agree/Strongly agree

- The current funding arrangements help schools, local authorities and AP to work together and to intervene early where such action may avoid the need for permanent exclusion later
- The current AP funding arrangements help schools and AP to reintegrate children from AP back into mainstream schooling where this is appropriate

17 How could we encourage more collaboration between local authorities, schools and providers to plan and fund local AP and early intervention support?

We believe devolving funding to local areas where decisions are taken about individual pupils at risk of exclusion is the most effective way of encouraging collaboration between the different stakeholders.

We also believe that the rigidity of the Place Plus system does not work for Alternative Provision, and a more flexible arrangement where budgets can be devolved to groups of schools without specific elements of funding or places assigned to them would be more successful.

18 What changes could be made to improve the way that the AP budget is spent, to better enable local authorities, schools and providers to use the local AP budget to provide high quality AP, intervene early to support children at risk of exclusion from school, or reintegrate pupils in AP back into mainstream where appropriate?

Amend the guidance to local authorities to encourage more flexibility within the system, to include devolution of budget responsibility to spend money by local headteachers. We also think the regulations should be tightened to allow local authorities to penalise schools who do not work in an inclusive way. We fully support the principal that the funding should follow the pupil, and where schools fail to operate in an inclusive way, the funding should be removed. This is within the spirit of the High Needs system.

We think that the current national system for funding AP does not provide enough funding and the system should be more responsive to meet growth in demand and at the same time keep pace with inflationary pressures

- 19 Please use the box below to share any examples of existing good practice where local authorities, schools and AP settings have worked together effectively to use the AP budget to provide high quality AP, intervene early to support children at risk of exclusion from school, or reintegrate pupils in AP back into mainstream where appropriate.

xxxxxxx

### **Funding for students with SEN in further education**

- 20 Are there aspects of the operation of the funding system that prevent young people from accessing the support they need to prepare them for adult life?

Yes

Comments

The single biggest aspect that prevents young people from accessing the support they need is the lack of funding in the High Needs system. More specifically, the increase in the age range from 18 to 25 has seen year on year growth in the number of students with High Needs remaining in education, yet there has been no additional funding for this new responsibility provided by central government.

The system introduced in 2013-14 was very much focused on providing funding to colleges for individual students with SEND with support costs exceeding £6,000 per annum. Such a system contains an inherent perverse incentive for colleges to over identify needs to attract additional funding. Unlike schools, they are fully reimbursed for all the additional costs once they exceed the £6k threshold.

One example of the current system that we think prevents young people from accessing the support they need is in relation to Specialist Post 16 Institutions. The funding system has become so complex, particularly with part of the funding provided by the ESFA and part by the Local Authority, with time delays introduced for element 2 funding based on ILR returns, and conflict and confusion on who should fund in year growth. We advocate a much simpler



model with the full funding provided to the local authority alongside the responsibility for funding to the providers for their students. Such a simplified system would remove tension and confusion and thereby accelerate funding and access to the support young people need.

- 21 Notwithstanding your views about the sufficiency of funding, please describe any other aspects of the financial and funding arrangements that you think could be amended to improve the delivery of provision for young people with SEN.

One of the biggest frustrations with the current system is that it takes time for both colleges and the local authority to agree the number of students who meet the £6,000 threshold. This means that colleges don't know how much funding they will have for the year until several months after they have admitted the students. Likewise, it is very difficult for local authorities to accurately forecast against already stretched High Needs budgets. Moving to a whole college costed provision informed by the intelligence that exists within the local authority and individual colleges (planned student numbers) where funding can be agreed much earlier in the annual timetable would be beneficially to both sides.

We think greater clarity is required on when a post 19 student should remain in education. We think the current guidance is too subjective and local authorities tend to err on the side of continuing education even when the educational attainment is questionable/relatively low. In practice it is difficult to separate out where care, education and employment provision begins and ends, and we feel the government should provide more guidance and clarity in this area and give local authorities more teeth to make decisions on continuing educational provision.

22. If you are able to provide any examples where local authorities and colleges have worked together effectively to plan provision to meet the needs for SEN support and high needs, please describe these below.

In Kent we have introduced a block payment arrangement with our FE Colleges. In its simplistic form, the LA guaranteed to provide the 2017-18 funding levels to its colleges in both 2018-19 and 2019-20. With this early confirmation, colleges agreed to absorb growth in student numbers and inflationary increases. This arrangement has worked well in the short term but is not the Holy Grail solution that we are looking for. We need to develop this arrangement further so that it is responsive to future material changes in student numbers whilst still taking into consideration the available resources within the High Needs block.

**Improving early intervention at each age and stage to prepare young people for adulthood sooner (SEN team to consider this section)**

- 23 Are the current funding or financial arrangements making early intervention and prevention more difficult to deliver, causing costs to escalate?

Yes

#### Comments

The current pressure facing High Needs budgets is forcing local authorities to rein back expenditure on early intervention, even though all the evidence shows that this leads to increased costs in the medium to long term.

The introduction of the requirement on local authorities with a deficit of more than 1% of their total DSG to produce a recovery plan will force local authorities to cut early intervention and preventative services even further, which in our opinion is counter intuitive and a false economy. In our opinion local authorities should be investing in early intervention and preventative work to help solve the High Needs budget challenge, however the capacity for local authorities to invest in such activity is severely curtailed in an ever increasing nationally controlled resource environment. The move towards fully implementing the schools' National Funding Formula appears to have trumped all other pressures within the system, including High Needs.

There are certain actions that local areas can take (and are taking), however the scale of the challenge alongside the constraints on local authorities are such that there is very little prospect of us being able to balance this budget without a significant investment of new funding and structural changes to reduce demand.

We would strongly advocate additional investment into the High Needs block targeted towards early intervention and prevention work.

- 24 If you can you provide examples of invest-to-save approaches with evidence that they can provide value for money by reducing the costs of SEN support, SEN provision or other support costs (e.g. health or social care) later, please describe these below.

xxxxx

- 25 If you think there are particular transition points at which it would be more effective to access resources, please indicate below those you believe would be most effective to focus on.

- The transition from early years provision to reception class in primary school - yes
- The transition from Year 6 in primary school to Year 7 in secondary school - yes
- The transition from secondary school to further or other tertiary education - yes

- Please indicate below any other transition points that you think we should look at

tbc

### **Effective partnership working to support children and young people with complex needs**

26. Please describe as briefly as possible below changes that you think could be made to the funding system nationally and/or locally that would foster more effective collaborative approaches and partnership arrangements.

Should we be radical and propose transfer of Health commissioning budget to LA's?

In Kent we have seen a rapid and unprecedented rise in the number of children and young people with ASD and complex SEMH needs, and due to a lack of suitable maintained places are being forced to place in the independent sector, where sometimes the quality is not as we would wish. We are aware that this is not just a Kent issue, and many other local authorities are in a similar position. We therefore think the government should consider researching what works for educating children and young people with these needs, backed up by sufficient new funding to then take successful approaches to scale and a new focus for teacher training, ongoing professional development and leadership training on how to create a supportive environment for children and young people with these needs.

### **Other aspects of the funding and financial arrangements**

27. Are there any aspects of the funding and financial arrangements, not covered in your previous responses, that are creating perverse incentives?

We think the current system including the threshold of £6,000 is creating a perverse incentive and we believe the way to overcome this is to consider the following package of changes:

1. raise the threshold significantly (say to £10,000 or even higher) and transfer the commensurate level of funding out of the High Needs block into the Schools Block accordingly.
2. undertake an activity-led costing exercise to quantify the true costs of additional and special educational needs support to be met from schools notional SEN budgets (after the increase in point 1 above). Any shortfall should be topped up by the government to ensure that adequate funding is provided within schools notional SEN budgets.

3. alongside this government set out clear national expectations for mainstream schools on what they should be offering to children and young people with SEND. This may include tightening regulations to provide such clarity. Only those pupils with the most severe and complex needs should be placed in special school provision.
4. the accountability measures and inspection framework, particularly on secondary schools (Progress 8), do not serve pupils with SEND well. The focus of Progress 8 is too academic, and the government needs to rethink this area with a view to widening their measure of pupil progress to facilitate a change in the attitude of mainstream schools to encourage inclusion of SEN pupils.
5. finally, the DfE should consider introducing accountability measures which hold schools to account who do not deliver against expectations. At the extreme end, this may include some form of penalty system which would be imposed on those schools who fail to adhere to expectations and thereby fail to operate in an inclusive manner. The current system means it can be cheaper to pass the cost of an EHCP or a permanent exclusion onto the local authority High Needs block without any recourse on a school's budget. We need a system where operating inclusively is the cheaper option.

Do we want anything in here about the focus and content of EHCPs and to afford greater flexibility to schools in how they arrange and deliver the support needed to meet the outcomes set out in the EHCP?

28. What aspects of the funding and financial arrangements are helping the right decisions to be made, both in securing good provision for children and young people with additional needs, and in providing good value for money?

In our opinion some of the right decisions are being taken. Need to speak to Louise.