**Department for Education**

High Needs Funding Reform Consultation

**Released:** 7 March 2016

**Deadline:** 17 April 2016, 5pm

**Contact:** HighNeedsFundingReform.CONSULTATION@education.gsi.gov.uk

**Introduction**

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1. **Name**

Our proposal for the structure of the formula is on pages 22 and 23 of the consultation.

First name: **Simon**

Last name: **Pleace**

1. **Email address**

If you enter your email address you will be able to return to edit your response at any time until you submit it. You will also receive an acknowledgement email when you submit your response.

Email address: **simon.pleace@kent.gov.uk**

1. **Response type**

Please select your role from the list below: **Local authority representative**

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Please select your organisation type from the list below: **Local authority**

Organisation name: **Kent County Council**

Local authority area: **Kent**

1. **Would you like your response to be confidential?**

Yes
No

Information provided in response to consultations, including personal information, may be subject to publication or disclosure under the Freedom of Information Act 2000, the Data Protection Act 1998 or the Environmental Information Regulations 2004.

If you want all, or any part, of a response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Education will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

**Please give your reason for confidentiality:**

**Principles for a reformed funding system**

1. **Do you agree with our proposed principles for the funding system?**

The principles are set out on pages 19 and 20 of the consultation.

Yes
No

**Please provide any further comments:**

**Yes we support these proposed principles, *although until the second stage of the consultation is published, and in the absence of any published evidence base, it is not possible to see whether the consultation proposals meet these principles.***

***We also believe that managing DSG holistically is an important principle that is missing from your proposals, as it ensures the needs of all pupils are met, without the detriment of any single group. Your proposal to remove the ability to move schools block funding to meet high needs pressures is unworkable from 2017-18. The solutions you have suggested to manage high needs costs will take a number of years to take effect.***

***There is an assertion in the consultation document that some authorities “might be spending more than is needed”, but no supporting evidence to suggest higher funded authorities are over-spending on children and young people with SEN. Whether or not LAs have been over funded in the past, they are currently spending it on individuals and the statutory framework expects all pupils will have their SSEN transferred to EHCPs so the prospect of any being ceased is minimal.***

***The availability of capital for additional capacity is welcomed but there needs to be some clarity about how the £200m is to be accessed. The consultation hints at greater involvement by LAs in post 16 arena and also new Free Special Schools, but is silent about the 16-25 year old for which specialist college provision needs to be developed.***

***This is an important consultation, which is being conducted in a very tight timeframe, which includes the Easter holidays for schools. This makes full engagement with schools and schools forums extremely difficult. In the absence of further details or evidence, it’s very difficult for us to plan for the implementation of these proposals for 2017-18 and it is therefore essential that the release of the second stage consultation is timely to allow for full responses which can be completed prior to the summer holidays.***

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**Distributing high needs funding to local authorities**

**Top of Form**

1. **Do you agree that the majority of high needs funding should be distributed to local authorities rather than directly to schools and other institutions?**

Our proposal is on page 22 of the consultation.

Yes
No

**Please provide any further comments:**

**We believe that the proposal does not go far enough and that all High Needs funding should be distributed to LAs and the EFA should have no role in the distribution of High Needs funding whatsoever. We see no value in the EFA top slicing LA DSG allocations and providing institutions with place funding. We know from our own feedback that institutions prefer dealing with one organisation for their funding, and LAs are best placed to fulfil this role alongside their statutory responsibilities. The distribution of place funding by the EFA creates additional administration for the LA, schools, academies and FE colleges and confuses institutions and most importantly creates a process that is less sensitive to the commissioning of actual place numbers.**

**Bottom of Form**

**Top of Form**

1. **Do you agree that the high needs formula should be based on proxy measures of need, not the assessed needs of children and young people?**

Our proposal is on pages 22 and 23 of the consultation.

Yes
No

**Please provide any further comments.**

***We support the use of proxy measures of need rather than assessed needs of children to prevent a perverse incentive to overstate need to attract higher funding. The use of proxy measures is the fairest method.***

**Bottom of Form**

**Formula design**

**Top of Form**

1. **Do you agree with the basic factors proposed for the formula?**

Our proposal is on pages 23 to 29 of the consultation. More information on the proposed indicators for the factors is included in the technical note.

Basic entitlement **Agree**

Population **Agree**

Child health **Disagree**

Child disability **Agree**

Low attainment at key stage 2 **Agree**

Low attainment at key stage 4 **Agree**

Deprivation – FSM eligibility **Agree**

Deprivation – income deprivation affecting children index **Agree**

Adjustments – for “imports/exports” **Agree**

**Please provide any further comments. We welcome comments on the indicators we use for these factors.**

***Whilst we agree with the use of proxy measures and we understand the reasons why the department has chosen the ones above, we think that the more factors used in the formula, the more difficult it will become for LAs to predict how much funding they will receive each year. One of your key principles is that the funding must be predictable. We are concerned that this formula may not be predictable for LAs.***

***We are aware of imminent changes to the attainment measures at the end of key stage 2 and 4, yet the consultation makes no reference to this. We think this is an important omission.***

***We are concerned that the child in bad health measure is only updated every 10 years and we therefore think it is unresponsive to changing local circumstances.***

1. **We are not proposing to make changes to the distribution of funding for hospital education, but would welcome views as we continue working with representatives of this sector on the way forward.**

Funding for hospital education is covered on page 29 of the consultation.

***We believe that it is unacceptable to continue to fund LA for hospital education based on historic spending, and instead they should move to a formulaic needs led approach like the rest of High Needs, with transitional protection over 3 years for any reductions in funding.***

**Top of Form**

1. **Which methodology for the area cost adjustment do you support?**

Our proposal for the area cost adjustment is on page 30 of the consultation.

There are 2 potential methodologies.

The general labour market (GLM) methodology reflects differences in labour costs between different areas. It is based of the Department for Communities and Local Government's labour cost adjustment, which is used to allocate funds to local authorities.

The hybrid area cost adjustment has 2 elements: teachers' pay costs and non-teaching staff pay costs. For the teachers’ pay element, it calculates notional averages for 4 regional pay bands: inner London, outer London, the fringe and the rest of England. The non-teaching staff costs element is based on the GLM methodology.

The hybrid measure reflects that the costs of teachers are lower in higher cost areas than the GLM indices would suggest. The use of notional averages is also intended to mitigate against the fact that schools in some local authorities can offer higher salaries because they are well funded.

general labour market methodology
hybrid methodology

**Please provide any further comments. In particular, we welcome views on whether we should adopt an adjustment that reflects that specialist settings, compared with mainstream institutions, often employ more teaching assistants and other non-teaching staff.**

***The hybrid methodology seems the fairest method. The general labour market methodology over funds the additional teacher costs in high cost areas (e.g. London) and is at odds with the DfE principle of fair national funding.***

**Managing a smooth transition**

Our proposal for the transition period is on pages 30 and 31 of the consultation.

1. **Do you agree that we should include a proportion of 2016-17 spending in the formula allocations of funding for high needs?**

Yes
No

**Please provide any further comments.**

***We think this would be helpful as it offers a degree of protection for those LAs who are set to lose funding by moving to a NFF, but without the size of the proportion it is difficult to comment further. Taking into account 2016-17 spending should be phased out over 3 years, and this timeframe should be manageable by all LAs.***

**Top of Form**

1. **Do you agree with our proposal to protect local authorities' funding through an overall minimum funding guarantee?**

Yes
No

**Please provide any further comments:**

***Yes but it should be set a sensible level so that funding can also be released to fund those LAs who are set to gain. Three year transition to the new NFF would seem reasonable.***

**Changes to the way high needs funding supports mainstream schools**

1. **We welcome views on what should be covered in any national guidelines on what schools offer for their pupils with special educational needs and disabilities.**

Our initial response to the ISOS research proposal to provide national guidelines is on pages 37 and 38 of the consultation. It emphasises the importance of schools' decisions about what kind of support is most appropriate for their pupils with special educational needs, working in partnership with parents.

***In Kent, we are using minimum standards for mainstream schools, known as the Mainstream Core Standards (MCS), which we publish on KELSI:*** [***http://www.kelsi.org.uk/policies-and-guidance/inclusion-and-achievement-documents***](http://www.kelsi.org.uk/policies-and-guidance/inclusion-and-achievement-documents) ***The core standards, which were developed with schools, set out expectations of what schools will have put in place to respond to the pupils in their school whose special educational needs have been identified. Evidence of how the MCS have been used and the outcomes achieved is used as part of the request for external advice, application for funding top up and to support referral for statutory assessment.***

***Whilst recognising the issues surrounding the calculation of notional SEN budgets currently, we think the primary issue of consistency can be overcome if the DfE adopts a national methodology for calculating notional SEN budgets. We strongly support the continuation of the requirement for schools to meet part of the costs of SEN before coming to the LA for top-up funding and we think the current £6k threshold is reasonable. If the Department is not in favour of retaining any form of notional SEN calculation, the £6k threshold must remain as a contribution from a school/academies total budget.***

1. **Do you agree with the proposed changes to the funding of special units in mainstream schools?**

We are proposing that special units in mainstream schools receive the per-pupil amounts that would be due to the school by including the pupils in the units within the school's pupil count, plus place funding of £6,000, rather than £10,000 per place.

Further information is on pages 38 and 39 of the consultation.

Agree
Disagree

**Please provide any further comments:**

***Yes we understand why it’s necessary under a NFF to change the way we fund special units in mainstream schools and we support this proposal although one unintended consequence is that this will introduce a time lag for any growth in pupils attending resource provision, similar to the time lag in growth in mainstream pupil numbers.***

1. **We welcome examples of local authorities that are using centrally-retained funding in a strategic way to overcome barriers to integration and inclusion.**

Information about how local authorities can use central funding to encourage appropriate mainstream inclusion is on page 39 of the consultation.

We welcome in particular examples of where this funding has been allocated on an 'invest-to-save' basis, achieving reductions in high needs spending over the longer term.

We would like to publish good examples we receive. Please check the box if you do not wish your response to be published.

I do not wish my response to be published

1. **We welcome examples of where centrally-retained funding is used to support schools that are very inclusive and have a high proportion of pupils with particular types of special education needs, or a disproportionate number of pupils with high needs.**

As set out on page 40 of the consultation, the ISOS report proposed that we should issue clearer guidance on how this funding can be targeted. Before we do so we are keen to have examples of what local authorities are doing to achieve value for money in this area

***We provide additional funding to schools that are very inclusive through the notional SEN top up. Schools that are not inclusive do not receive such funding.***

**Changes to the way high needs funding supports independent special schools**

**Top of Form**

1. **Do you agree that independent special schools should be given the opportunity to receive place funding directly from the Education Funding Agency with the balance in the form of top-up funding from local authorities?**

Our proposal about the funding of independent special schools is on pages 40 and 41 of the consultation.

Agree
Disagree

**Please provide any further comments:**

***This proposal is completely unnecessary and we believe it will confuse institutions, as funding will be coming from two sources, rather than just the LA as it does presently. We can see no added value from this proposal.***

**Changes to the way high needs funding supports post-16 providers**

1. **We welcome views on the outline and principles of the proposed changes to post-16 place funding and on how specialist provision in further education colleges might be identified and designated.**

Our intended approach for post-16 mainstream institutions which have smaller proportions or numbers of students with high needs differs from the approach for those with larger proportions or numbers. Information about this and other proposals for changes to post-16 funding is on pages 42 to 46 of the consultation.

**Please provide any further comments.**

***We support the outline and principles of the proposed change to post 16 place funding, with the designation of special units in FE colleges.***

**Equality analysis**

The equality analysis published alongside the consultation sets out the potential impact of our proposals on protected characteristics.

1. **We welcome comments on the equalities impact assessment.**