

Rotherham Schools' Forum

Venue: Virtual Meeting

Date: Friday, 26 June 2020

Time: 9.30 a.m.

A G E N D A

1. Apologies for Absence.

To receive apologies from any Forum Member who are unable to attend the meeting.

2. Declarations of Interest.

To invite Forum Members to declare any interests they may have on agenda items to be considered at this meeting, to confirm the nature of those interests and whether they intend to leave the meeting for the consideration of the item.

3. Minutes of the Previous Meeting (herewith) (Pages 1 - 8)

Recommendation:- To receive and approve the minutes of the previous meeting held on 17th January, 2020.

4. Matters Arising from Previous Minutes.

To consider and report on any matters arising from the previous minutes.

Items for Discussion:-

5. Constitution and Membership of the Schools' Forum (attached) (Pages 9 - 11)

Report of the School Forum Clerk

Recommendation:- To note the current membership and to agree the replacement representatives for a maintained school member – primary governor sector and the Diocese of Hallam (as highlighted).

6. Dedicated Schools Grant - 2019/20 Outturn & 2020/21 Funding (herewith) (Pages 12 - 34)

Report by Vera Njegic/Neil Hardwick,
Schools Finance.

Recommendation:- To receive the report and note the contents.

7. Updates to the High Needs Block from 2020/21 ESFA Guidance (herewith) (Pages 35 - 44)

Report by Vera Njagic/Neil Hardwick, Schools Finance.

Recommendation:- (1) To note the process to agree initial place funding with educational institutions and the requirements to agree additional in year funding as detailed in the ESFA 2020-21 High Needs Funding Operational Guidance.

(2) To agree the proposed enhanced processes to confirm import/export places with each education institution and where incorrect action the enquiry process through the ESFA.

8. Enhancements to Payment of Element 3 (Top-Up) Funding for High Needs Learners (herewith) (Pages 45 - 111)

Report by Vera Njagic/Neil Hardwick, Schools Finance.

Recommendation:- To approve the enhancements to the payments process of Element 3 (Top up Funding) from the DSG High Needs Block to all mainstream, special schools, PRU's and Further Education institutions for all Rotherham High Needs Learners (HNL's).

9. Update on SEN Sufficiency Projects (herewith) (Pages 112 - 118)

Report by Mary Jarrett, Head of Inclusion.

Recommendation:- To note the progress in relation to developing the new SEN Sufficiency projects.

10. SEND Joint Commissioning Strategy, SEMH Strategy and SEND Sufficiency Strategy

Update by Jenny Lingrell,
Assistant Director, Commissioning, Performance and Inclusion.

Recommendation:- To receive an update on the SEND Joint Commissioning Strategy, the SEMH Strategy and SEND Sufficiency Strategy.

11. Alternative Provision Review

Update by Jenny Lingrell,
Assistant Director, Commissioning, Performance and Inclusion.

Recommendation:- To receive an update on the Alternative Provision Review.

12. Risk Protection Arrangement (RPA) (herewith) (Pages 119 - 121)

Report by Andrew Shaw, Risk Management, Finance.

Recommendation:- To receive the report and note the contents.

13. Expanding and New Schools Contingency Funding Formula (herewith) (Pages 122 - 124)

Report by Dean Fenton Head of Access to Education.

Recommendation:- To note the current expanding and new school growth funding allocations formulas.

14. Waverley Disapplication Request (herewith) (Pages 125 - 126)

Report by Neil Hardwick,
Schools Finance.

Recommendation:- To receive the report and note and support the contents.

15. Free School Meals Applications (herewith) (Page 127)

Report by Neil Hardwick, Schools Finance.

Recommendation:- To receive the report and note the contents.

16. Any Other Business. (Pages 128 - 129)

Recommendation:- To receive any other items of urgent business:-

(a) DfE School Funding guidance - COVID Pandemic.

17. Dates of Next and Future Meetings

Recommendation:- To consider and agree the dates and times of the next meetings of the Rotherham Schools' Forum on Friday, 18th September and 20th November, 2020 – venue to be confirmed.

**ROTHERHAM SCHOOLS' FORUM
FRIDAY, 17TH JANUARY, 2020**

In Attendance:-

Deborah Ball (Treeton Primary (Academy) (in the Chair);
Lianne Camaish – Aspire
Dom Curran – Aston Academy
Christina Hill – GMB Representative
Andy Krabbendam – Kiveton Park Infant and Harthill Primary (Academy)
Jenny Lingrell – Assistant Director, Commissioning, Performance and Inclusion
Vera Njelic - Principal Finance Officer, RMBC
Kirsty Peart - Sitwell Infant (Maintained)
Lynn Pepper – Herringthorpe Infant School (Maintained)
Debbie Pons – Clerk, RMBC
Alan Richards – Secondary Governors
Paul Silvester – Newman Special School (Maintained)
Helen Simpson – Ferham Primary (Maintained)

Apologies were received from:-

Dean Fenton - Head of Access to Education
David Naisbitt – Oakwood High (Academy)
Pepe Di'lasio – Interim Assistant Director of Education
Nevine Towers – Diocese of Sheffield

24. WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting and formal introductions were made.

25. DECLARATIONS OF INTERESTS

There were no Declarations of Interest from the agenda to report.

26. MINUTES OF THE PREVIOUS MEETING HELD ON 22ND NOVEMBER, 2019

Agreed:- (1) That the minutes of the last meeting held on 27th September, 2019, be approved as a true and accurate record.

(2) That Vera Njelic, Schools Finance, provide a breakdown of the School Funding Formula 2020/21 consultation outcome showing the number of schools that had responded and their stated preference to the options proposed.

The following was received after the meeting:- “A total of 48 (110) schools responded, 7 maintained and 41 academies. All respondents agreed with the principle that Rotherham had adopted with the minimum

funding guarantee. Twenty six agreed to the 1.5% transfer from the schools block to the high needs, 22 disagreed. Thirty two agreed to the provision of a growth fund and 14 disagreed. Thirty eight schools agreed that the central school services block continue to be centrally held with 10 disagreeing. Only maintained schools needed to respond to 2 further questions on de-delegation. Of the 6 maintained primaries, 5 disagreed and 1 agreed to de-delegate funds for a school in financial difficulty fund. Of the 7 maintained (6 primary and 1 secondary) schools 6 disagreed and 1 agreed to de-delegate funds for trade union services.”

(3) That Dean Fenton, Access to Education, submit a report to the next meeting of the Forum on the formula used for funding allocations for new and expanding schools.

27. MATTERS ARISING FROM PREVIOUS MINUTES

Arising from Minute No. 18 (Mid-Year Early Years Block Update and 2020/21 Funding Announcement), Aileen Chambers provided further information with regard to DfE retrospective adjustments to budget.

The DfE set an indicative budget at the start of the year which was based on January 2019 census figures and then adjusted based on the January 2020 census. That budget adjustment would be received around July 2020. This was then adjusted a year later after the year had ended based on the following January's census.

Often there was quite a difference. Last year the Authority was not allowed to see the Academy data census until it had been submitted to and approved by the DfE even though all the information from Maintained Schools and Key Providers had been provided.

Crosschecking between the data from head count and what was actually contained within the census took place. Figures provided by the Authority were based on projections and the adjustment made on the final position at the end of the census.

28. CONSTITUTION AND MEMBERSHIP OF THE SCHOOLS' FORUM

The School Forum Clerk presented the current constitution as at April 2019, of the Rotherham Schools' Forum.

Notification had been received that Sharon Stones, Head of School at Arnold Nursery School and Children's Centre, was now the Nursery School Head Teacher representative.

Angela McComb, had been appointed as a Local Authority Governor at Anston Park Junior School, in the Maintained School Members Primary Governors Section. This still left one vacancy in this Sector.

Discussion ensued with the following amendments given to the constitution submitted:-

- Primary School Head Teachers - Paula Dobbin, Head Teacher, Redscope Primary, had now retired
- Alan Richards, Secondary Governor – should be moved to Academy Members
- Private, Voluntary and Independent Sector Nursery – there was no vacancy
- The need for a mechanism for voting in the constitution should the need arise

Agreed:- (1) That Sharon Stones and Angela McComb be approved as representatives on the Rotherham School's Forum.

(2) That the membership of the Rotherham Schools' Forum be updated as above.

(3) That Kirsty Peat, Head Teacher of Sitwell Infant school, raise the issue of Primary School Governors and Primary School Head Teacher representation at the Head Teachers meeting.

(4) That Paul Carney, Governors Section, be requested to raise the issue of representation at the next meeting of the Governors Forum.

(5) That the issue of representation be raised at RESP.

29. HIGH NEEDS SUFFICIENCY STRATEGY UPDATE

Mary Jarrett, Head of Inclusion, gave a verbal update on the High Needs Sufficiency Strategy.

The building work had started on the sufficiency programme with a lot of work behind the scenes to set pathways. A report would be submitted to the next meeting of the Forum.

There had been a delay to the works at Hilltop School due to staff sickness but this was now progressing.

The building works at Thomas Rotherham College were bigger and more extensive than originally anticipated and were likely to cause some delay to the opening of the new provision. However, this would not affect the sufficiency in terms of the young people being able to access the provision. There was assurance that it was on track for September 2020.

Agreed:- That the update be noted and a further report be submitted to the next meeting.

30. 2020/2021 EARLY YEARS FUNDING

Aileen Chambers, Education and Skills, presented a report summarising the statutory guidance in place for the allocation of Early Education Funding and Inclusion Support Grant and proposals for the 2020/21 allocation.

It was confirmed the Early Years Block funding was delivered through the national funding formula. Every Local Authority was required to allocate the funding to Early Education providers based on a local funding formula made up of a single base rate and a mandatory deprivation supplement (for 3/4 year olds Early Education). Local authorities could retain 5% of the 3/4 year olds budgets allocation to fund central services.

Local authorities were required to consult providers on annual changes to their local formula as well as Schools' Forums on changes to local Early Years funding formulas including agreeing central spend by 28th February although the final decision rested with the local authority concerned.

It was proposed to retain the current local funding formulae in 2020/21 as follows:-

Retention for Central Spend	5% of 3/4 year olds and 30 hour budgets
3/4 year olds hourly rate	£4.08 plus Deprivation Supplement if eligible (increase of 8p per hour)
3/4 year olds Deprivation Supplements	Up to 2% of 3/4 year olds and 30 hour budgets to be distributed as an additional hourly rate maintaining the 10p/15p supplement
2 year old hourly rate	£5.28 (increase of 8p per hour)
Nursery Stability Funding	Lump sum to be passported to 3 nursery schools as required by guidance

The 2020/21 increases in hourly rate for Early Education providers would be the first increase they had received for 3 years. The increase was essentially for ongoing sustainability as the cost of delivery had increased significantly over the last 3 years with increases in minimum wage, business rates increases as well as increased running costs.

Following a review of the Inclusion Support Grant (ISG) in 2019/20 by the CYPS Directorate Leadership Team, the offer of the ISG in its current format for 2020/21 was approved. It was anticipated that a budget of £410,000 would be required in the forthcoming financial year. It would be funded from the Early Years Block through a contribution of carry forward from 2019/20 and in-year 2020/21 budget.

Discussion ensued with the following issues raised/clarified:-

- Disability Access Funding was an annual award and its carry forward could be used to supplement Dedicated Schools Grant
- Request for projected figures to be provided for each element of the above table. That could be provided once the Section 251 had been completed
- The use of the Central Spend

Rotherham was part of the DfE's Early Outcomes Project this year which was aimed at improving speech, language and communication. It would be rolled out as from next year.

Agreed:- (1) That the Early Education funding rates for 2020/21 be noted.

(2) That the retention of 5% of the 3 year old and 30 hour budget to cover Central spend (Early Years and Childcare Service) be approved.

(3) That the Inclusion Support Grant proposals be noted.

(4) That the Section 251 submission be submitted for information to the next meeting.

31. 2020/2021 DEDICATED SCHOOLS GRANT AND FUNDING FORMULA

Vera Njelic, Schools Finance, presented a report updating the Forum on the 2020/21 Dedicated Schools Grant (DSG) funding for Rotherham together with proposals on the formula for allocation of the schools block and the central schools block element of DSG.

The DfE had issued the final version of the Authority Pro-forma Tool (APT) to local authorities with the Autumn 2019 pupil census. Rotherham had until 21st January, 2020 to submit the final version to the DfE.

In October 2019 the Local Authority sought consultation with schools, academies and the Schools Forum on the local funding formula decisions as set out in the Regulations. The report set out the summary information on the impact of those decisions.

As agreed at the Schools Forum meeting on the 22nd November, 2019, a request to transfer 1.5% from the school block to the high needs block was submitted to the Secretary of State on the 28th November, 2019. If the request was not approved, 0.5% would be transferred, therefore the Local Authority had completed 2 versions of the Authority Pro-forma Tool (APT).

Table 2 within the document showed 'Successful Disapplication request to transfer 1.5%'; Table 3 showed 'Unsuccessful Disapplication request - transfer 0.5%' both of which showed comparisons to last year.

Vera explained the funding in table 6 for the Central Services Schools Block allocation and the group agreed with the comments.

The Teachers pay grant would continue in the 2020/21 financial year as set out in the teachers' pay grant methodology document as well as the teachers' pension employer contribution grant continuing in the 2020 to 2021 financial year as set out in TPECG methodology document.

Pupil premium rates for the 2020/21 financial year would be confirmed in the New Year.

Discussion ensued with the following issues raised/clarified:-

- Transition to National Funding Formula was still continuing
- An email would be sent once a decision was received from the DfE on the Disapplication transfer percentage
- Confusion as to the definition of “low prior attainment” used and what formula used

Agreed:- (1) That the report be noted.

(2) That clarification be sought as to the definition of “low prior attainment” and the funding used by the DfE.

32. EXCLUSIONS/PUPIL REFERRAL UNITS STRATEGY UPDATE

Mary Jarrett, Head of Inclusion, presented an update on SEMH developments for 2020.

The SEMH Strategy had been finalised in September, 2019, and had 6 priorities:-

- Sufficiency – develop local education provision that responds to need – this will include flexible and specialist provision
- Seamless pathways – ensure that pathways to support are connected and aligned and develop a clear behaviour pathway that includes responses to attachment and trauma
- Partnerships – develop and sustain robust inclusion partnerships that enable schools to meet need through a collective approach to responding to the needs of individual children
- Evidence-Based Approaches – ensure that the local authority offer (from Early Help and Inclusion Services) responds to need and is underpinned by evidence-based approaches and aligned with clear pathways
- Workforce – develop a robust training and support offer, enabling

professionals to feel confident in responding to the needs of children and young people with SEMH needs

- Outcomes Focused and Value for Money – ensure that all activity can demonstrate a clear outcome and value for money

In order to progress the above, 3 pieces of work had been identified which would take place during the remainder of the 2019/20 academic year. These were:-

- Creation of small grants to 'seed fund' secondary schools to support the development of Alternative Provision in Rotherham. The monies were calculated according to pupil numbers and deprivation indices. These would be supported by a Service Level Agreement (SLA) between secondary schools and the Local Authority. The SLA would support schools to work together and clarify the use of Aspire as Alternative Provision
- Review of Pupil Referral Units in Rotherham and use of Alternative Provision in the Borough. This work would be subject to competitive tender bids by the end of January
- Workforce development project. The Local Authority had commissioned Sara Graham from Maltby Academy Trust via ROSIS to evaluate the current workforce offer in relation to SEN and to develop evidence based programme of CPD for education staff.

Attention was also drawn to:-

- The Exclusions Team had been subject to a restructure and now formed part of Access to Education managed by Dean Fenton. The Team's role and remit had changed significantly looking at the Local Authority's role in supporting/challenging schools and ensuring everyone was working within the framework
- The Primary Outreach Team would be going into primary schools looking at the graduated response in relation to SEM and the specific needs of the children involved which would feed into the work of Sara Graham. It was hoped to open a new SEN provision by the Easter Term, based at Thrybergh Primary School, to provide turn round provision for children and young people that needed a break from mainstream education with the aim of them returning
- A report would be submitted to the Forum when the review of the PRU and Alternative Provision was undertaken. The external consultant would be ask to undertake a specific piece of work analysing numbers/trends/data to inform Rotherham's sufficiency needs

Agreed:- That the update be noted.

33. ANY OTHER BUSINESS

There was no other business to report.

34. DATES AND TIMES OF FUTURE MEETINGS

Agreed:- That future meetings of the Schools Forum take place in April, June, September and November, 2020, exact dates to be confirmed.

Rotherham Schools Forum: Constitution – June, 2019

Position	Name	School/Body
Nursery School Head Teacher x 1	Sharon Stones	Head of School at Arnold Nursery School and Children's Centre
Primary School Head Teachers x 4	Paula Dobbin	Head Teacher of Redscope Primary
	Lynn Pepper	Head Teacher of Herringthorpe Infant
	Kirsty Peart	Head Teacher of Sitwell Infant
	Vacancy	
Primary Academy Representatives x 6	Deborah Ball	Chair and Head Teacher of Treeton CofE Primary
	Andy Krabbendam	Executive Head of Kiveton Park Infant and Harthill Primary
	Vacancy	
Special School Head Teacher x 1	Paul Silvester	Head Teacher of Newman School
Special Academy Representative	John Coleman	Nexus MAT Director
Secondary Maintained School Head Teacher x 1	Vacancy	
Secondary Academy Representatives x 6	Phil Davies	Head Teacher of Wingfield Academy

	Dom Curran	Head Teacher of Aston Academy
	Steve Rhodes	Head Teacher of Winterhill Academy
	Jon Taylor	Head Teacher of Wath
	David Naisbitt	Head Teacher of Oakwood Academy
	Andy Riches	CEO of LEAP Academy Trust (Brinsworth & Dinnington)
Pupil Referral Unit Head Teacher x 1	Lianne Camaish	Head Teacher of Aspire
Maintained School Members: Primary Governors x 3	Rajmund Brent	Governor – West Melton Primary
	Angela McComb	Local Authority Governor – Anston Park Junior
	Vacancy	
Maintained School Members: Secondary Governor x 1	Alan Richards	
Academy Members: Governors x 6	Vacancy	
	Vacancy	

Diocese of Sheffield Church of England x 1	Nevine Towers	Diocese of Sheffield Academies Trust
Diocese of Hallam, Roman Catholic x 1	Phillip Patterson	Diocese of Hallam
Private, Voluntary and Independent Sector Nursery x 2	Steve Scott	Happy Kids
	Vacancy	
16-19 Provider x 1	Laura Reid	RNN Group
Union Representatives x 2	Christina Hill	GMB
	Sultan Mahmood	Unison
Education Funding Agency	Name notified to School Governor Services in advance of attendance.	EFA
Total Places	38	
Total Places Filled	25	
Total Vacancies	13	

REPORT FOR SCHOOLS FORUM

1.	Date of meeting:	26th June 2020
2.	Title:	Dedicated Schools Grant – 2019/20 Outturn & 2020/21 Funding
3.	Directorate:	Finance and Customer Services

1. PURPOSE OF REPORT

- 1.1 To inform members of the Schools Forum as to the 2019/20 outturn position of the dedicated schools grant (DSG).
- 1.2 In addition, to provide summary details to maintained members of Schools Forum as to the surplus/deficit balances of the maintained schools within Rotherham.
- 1.3 The report outlines the national picture on the High Needs Block as part the overall Dedicated Schools Grant and the additional funding the government is investing in education in the next three years as part of its spending review.
- 1.4 The report also brings to members' attention clarification on the accounting treatment of the Dedicated Schools Grant reserve and use of funds to mitigate the deficit following the government's consultation response in January 2020.
- 1.5 To provide information in respect of pupil-led funding recovered as a result of permanent exclusions.

2. RECOMMENDATION(S)

- 2.1 That Schools Forum members note the information contained within this report, particularly that the reserve balances have increased to £19.7m (centrally retained).
- 2.2 That Schools Forum members note that the deficit balance is subject to change as this will be dependent on the early years adjustment for the Spring 2020 census count. Within the figures, an anticipated addition of £50k has been accounted for.

3. REASON FOR RECOMMENDATION(S)

- 3.1 To ensure that Schools Forum members are kept informed of the DSG position within Rotherham. Furthermore, that maintained members of the Forum are kept abreast of the surplus/deficit balances of maintained schools within Rotherham.
- 3.2 To ensure that Schools Forum members are kept informed of the reserve position within Rotherham.

4. BACKGROUND INFORMATION & CONTEXT4.1 Context

In 2019/20 the final allocation of DSG for Rotherham was £84.201m. This amount is net of academy recoupment for the 84 academies within Rotherham at a total of £155.744m.

It should be noted that the 2019/20 accounts also include the 2018/19 early years

adjustment from the January 2019 census of £90k which authorities were notified of in summer 2019 (after the 2018/19 statement of accounts had been compiled). However, Schools Forum members should note that the DSG note to the accounts however was updated to include this.

As in previous years the local authority has yet to be notified of the final early years adjustment for 2019/20 (based on the January 2020 census). The government have advised the individual authorities will be notified of this adjustment in June 2020. The local authority has modelled the census data provided to the government and are anticipating an addition of £50k. This has been included with the 2019/20 accounts.

4.2 Centrally retained balance

The DSG central reserve deficit balance brought forward to 2019/20 was 15.1m. The early years adjustment for January 2019 received in summer 2019 was additional funding of £90k used to meet the pressure on the high needs expenditure.

As reported to Schools Forum throughout the year; pressures on high needs expenditure continued with a further deficit in 2019/20 of £4.6m which has contributed to a net deficit in the DSG Central Reserve of £19.9m after taking account of DSG balances in other DSG funding blocks.

It should be noted, as outlined elsewhere in the report, that the local authority has modelled the impact of the January 2020 early years census data and are expecting additional funding of £50k. This has been taken into consideration in the production of the 2019/20 final accounts. The actual adjustment will be known in summer 2020.

The £50k anticipated additional allocation is made up of an additional £116k for 3 & 4 year olds, £11k for Early Years Pupil Premium, and clawback of £10k for Nursery Schools supplementary funding and clawback of £67k for 2 year olds.

High Needs Block Element

The High Needs Block over spend is as a result of a number of factors; an overall increase in Education Health and Care Plans, an increase in the number of young people aged 16 to 25 with an EHCP who are now the responsibility of the LA to fund, an increase in the number of children accessing higher cost provision and an increase in the number of pupils in Alternative Provisions (Pupil Referral Units).

The deficit reflects system wide issues in how the funding is determined. Whilst the allocation moved to a formulaic basis in 2018/19 and now includes proxy indicators of SEND within the population, a large element of the grant remains fixed based on historic spend.

In 2019/20 Rotherham were successful in submitting a disapplication request to the Secretary of State to transfer 1.5% of the DSG Schools Block allocation (£2.8m) to the High Needs Block. The transfer is for one year only and to continue with the transfer of funding a new application is required each financial year.

Despite the £2.8m transfer of funding into the High Needs Block there was still a overspend of £4.6m (financial pressure would be £7.4m without the transfer) in the 2019/20 financial year.

2020/21 & Future Years

The recent Government spending review announced additional funding for schools and high needs, compared to 2019-20, will rise by £2.6 billion for 2020-21, £4.8 billion for 2021-22 and £7.1 billion for 2022-23.

In 2020/21 the £2.6 billion is split £1.9 billion to the Schools Block and £0.7 billion to the High Needs Block; the funding split for future years still to be determined. For Rotherham this is an additional £6.2m for schools and £4.8m in the High Needs Block.

DSG Central Reserve – Use of Funds to Mitigate Deficit

On the 11 October 2019 the Department for Education consulted on changing the conditions of grant and regulations applied to the Dedicated Schools Grant (DSG) in order to clarify that the DSG is a ring-fenced specific grant separate from the general

funding of local authorities, and that any deficit an authority may have on its DSG account is expected to be carried forward to the next year's schools budget and does not require to be covered by the authority's general reserves, please see appendix 1 for DfE consultation response.

The government consultation response makes it entirely clear on a statutory basis that a DSG deficit must be carried forward to be dealt with from future DSG income, unless the Secretary of State authorises the LA not to do this.

5. Individual School Budgets

5.1 As set out within the Rotherham Scheme for Financing Schools, individual schools are permitted to carry forward balances to be spent or replenished in subsequent financial years. In total, the carry forward on individual school budgets (listed below) is an overall combined surplus of £2.461m.

Value of Balance	Number of Schools	% of Total Number of Schools	Combined Value of Balance
Deficit Balance	7	-20%	-367,809
Surplus £0 - £20,000	3	8%	30,713
Surplus £20,001 - £50,000	8	23%	269,713
Surplus £50,001 - £100,000	7	20%	502,025
Surplus £101,001 - £250,000	7	20%	1,143,198
Surplus £250,001 +	3	8%	882,896
Total	35	100%	2,460,736

5.2 Surplus balances

As at 31st March 2020, the movement on surplus balances when compared with 2018/19 reflected a decrease in year of £.980m as follows:

2018-2019		2019-2020		Change in Year	
No of Schools	Value in £'000	No of Schools	Value in £'000	No of Schools	Value in £'000
33	3,809	28	2,829	-5	980

In the main, the reason for the decrease in the level of surplus is due to a reduction in primary and secondary sectors. Three of the five in-year academy conversions were schools with cumulative surplus balances of £871k as at 31ST March 2019.

Of the total 2019/20 surplus balances, 8 schools hold balances above the thresholds set out in the Scheme for Financing Schools. The Scheme for Financing Schools sets out the financial arrangement between the local authority and the maintained schools. The scheme states that if a schools balance has exceeded the allowable surplus (8% of school budget share for nursery, primary and special, 5% for secondary) and allowing for commitments and any amounts assigned for a specific purpose then the local authority may deduct an amount equal to the excess balance.

Letters have been sent to the schools asking for them to return an excess surplus balance justification plan.

As at 31st March 2020, the movement on deficit balances in comparison with 2018/19 shows an increase in the value of the deficit by £48k as follows:

2018-2019		2019-2020		Change in Year	
No of Schools	Value in £'000	No of Schools	Value in £'000	No of Schools	Value in £'000
7	-320	7	-368	0	-48

In summary, the 7 deficit balances can be analysed as follows:

Number of Schools	Amount of Deficit
4	Up to £50,000
3	Above £50,001

Of the 7 schools that were previously identified to be in deficit, 1 have now entered a surplus balance position, 2 now have academy status with a cumulative deficit balance of £103k and 4 schools remain in deficit.

3 schools that were previously in surplus have now entered a deficit position. Meetings will take place between the school, Finance, HR and School Improvement Service colleagues to support them in developing their deficit recovery plans.

For all schools that are in a deficit position, individual 3 year budget recovery plans are in the process of being compiled. These will then be subject to formal review throughout the year.

Similar to previous years, the key reasons why schools have deficit balances are as follows:

- falling pupil numbers and schools do not take action quick enough to adjust their staffing compliment
- excessive levels of spending on goods/services and/or excess staffing structures
- long term staff absences/suspensions which are not covered through staff insurance
- short term absence which do not trigger insurance claims

6 Excluded pupils

A total of £52,021 was recovered from individual schools & academies who permanently excluded pupils during 2019/20 financial year. This funding was utilised to reduce the amount of high needs block DSG funding required to fund the pupil referral units.

7. Names and contact details

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Department
for Education

Clarifying the Specific Grant and Ring-fenced Status of the Dedicated Schools Grant (DSG)

Government Consultation Response

January 2020

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Introduction

The Department for Education consulted on changing the conditions of grant and regulations applying to the Dedicated Schools Grant (DSG), in order to clarify that the DSG is a ring-fenced specific grant separate from the general funding of local authorities, and that any deficit an authority may have on its DSG account is expected to be carried forward to the next year's schools budget and does not require to be covered by the authority's general reserves.

The public consultation exercise sought views on making such changes relating to the DSG and allowed respondents to express comments, views or concerns.

Who this was for

The following stakeholders were identified:

- Local Authorities (LAs) in England
- Schools Forums
- Those who audit LAs in England
- Other interested parties

Consultation period

The consultation took place from 11 October 2019 to 15 November 2019. It was conducted online using the government's consultation software, or alternatively, respondents were able to email or send a response form.

About the consultation

Context

Since 2006 the Department for Education has funded local authorities for their current expenditure on schools, early years and children and young people with high needs through a specific grant known as the Dedicated Schools Grant (DSG), made under section 14 of the Education Act 2002. This specific grant must be spent on the local authority's Schools Budget, which is defined in regulations (currently the School and Early Years Finance (England) (No 2) Regulations 2018).

At the end of each financial year, a local authority may have underspent or overspent its DSG allocation. The conditions of grant for the DSG provide that any underspend must be carried forward to the next year's Schools Budget. To date, the conditions of grant have provided three options for dealing with an overspend:

- the local authority may decide not to fund any of the overspend from its general resources in the year in question, and to carry forward all the overspend to the schools budget in future years
- the local authority may decide to fund part of the overspend from its general resources in the year in question, and carry forward part to the schools budget in future years
- the local authority may decide to fund all of the overspend from its general resources in the year in question

Carrying forward an overspend to the schools budget in future years requires the consent of the local schools forum, or if that is not forthcoming the authorisation of the Secretary of State. In practice, schools forums have almost always approved the carrying forward of an overspend.

Until the last few years, few local authorities were recording DSG overspends, and those overspends were small. However, pressures on the high needs budget have led to more and larger overspends in recent years. Local authorities' budget data for 2019-20 recorded that at the end of 2018-19, about half of all authorities experienced an overspend, amounting to over £250m in all, while others were still carrying forward surpluses. The national net position was an overspend of £40m, and authorities were forecasting that there would be a net overspend of £230m at the end of 2019-20.

The Government announced at the end of August 2019 that funding for schools and high needs will rise by £2.6bn for 2020-21, £4.8bn for 2021-22, and £7.1bn for 2022-23, compared to 2019-20. This includes £780m extra for high needs in 2020-21: the division of funding between schools and high needs for 2021-22 and 2022-23 has yet to be determined. This additional funding will help many local authorities to bring their DSG

accounts into balance, but a number of authorities will already have substantial deficits at the end of 2019-20 and will not be able to recover them immediately.

The DSG is a specific grant, and the conditions of grant make clear that it can only be spent on the Schools Budget, and not on other aspects of local government expenditure. But where there is an overspend on the DSG, local authorities may currently decide to fund that from general resources. This has led some local authority Chief Finance Officers (often referred to as section 151 officers, with reference to section 151 of the Local Government Finance Act 1972) to conclude that if their DSG account is in deficit, they need to be able to cover the deficit from the authority's general reserves. We know that a similar view is held by organisations that audit local authority accounts. Given the size of some authorities' DSG deficits, and the other pressures on authorities' reserves, there is a risk that covering DSG deficits from general funds may lead authorities to make spending reductions in other services that they would not otherwise make.

The Government's intention is that DSG deficits should not be covered from general funds but that over time they should be recovered from DSG income. No timescale has been set for the length of this process.

The Department held discussions with the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Ministry of Housing, Communities and Local Government (MHCLG) about changes that we might make to the DSG conditions of grant and the regulations in order to create certainty that local authorities will not have to pay for DSG deficits out of their general funds. The proposals that we made in the consultation following these discussions are described below, and were intended for implementation from the start of the financial year 2020-21, so that local authorities would take them into account in setting budgets for 2020-21.

Proposals

We proposed to change the conditions of grant for the DSG with effect from the end of the financial year 2019-20 (ie, any overspend at the end of 2019-20 will fall under the new arrangements). This was therefore expected to inform and affect budget setting processes for 2020-21, as well as the presentation of reserves in the annual accounts for 2019-20. Subject to the outcome of consultation, we proposed that future arrangements for dealing with overspends would be worded as follows:

- the local authority must carry forward the whole of the overspend to the schools budget in future years;
- the local authority may not fund any part of the overspend from its general resources, unless it applies for and receives permission from the Secretary of State to do so.

The main reason for including the second bullet was that some local authorities have traditionally made small contributions from their general fund to some elements of the schools budget, unconnected to considerations relating to DSG deficits, and we would not wish to prevent this in future.

On this we asked:

Question 1: Do you agree that we should change the conditions of grant so that future arrangements for dealing with DSG overspends are worded as follows:

- the local authority must carry forward the whole of the overspend to the schools budget in future years;
- the local authority may not fund any part of the overspend from its general resources, unless it applies for and receives permission from the Secretary of State to do so.

As noted in the context section, carrying forward an overspend to the schools budget in future years currently requires the consent of the local schools forum, or if that is not forthcoming the authorisation of the Secretary of State. This is set out in [regulations 8\(6\) and 8\(10\) of the School and Early Years Finance \(England\) \(No 2\) Regulations 2018](#). If the conditions of grant are changed so that the local authority must carry forward the whole of any DSG overspend to the schools budget in future years, it would no longer make sense to require the schools forum to agree such a carry forward. We therefore proposed to delete regulations 8(6) and 8(10) from the new regulations for the financial year 2020-21. On this we asked:

Question 2: Do you agree that we should delete regulations 8(6) and 8(10) from the new School and Early Years Finance (England) Regulations for the financial year 2020-21, so that local authorities are able to carry forward any DSG overspend to the schools budget in future years as the new conditions of grant will require?

The purpose of making these changes to the conditions of grant and to the regulations was to establish clearly that local authorities would not be required to cover any DSG deficit from general funds, and therefore do not need to have free general reserves available to match the deficit. On this we asked:

Question 3: Do you agree that the proposed new conditions of grant and regulations will establish clearly that local authorities will not be required to cover any DSG deficit from general funds?

Summary of responses received

This section summarises the responses that we received to the consultation. It is followed by a more detailed account of responses to Question 1, 2 and 3.

In total there were 153 responses to the consultation, though one respondent did not answer any of the three questions.

A list of the organisations that have responded can be found at Annex A, other than those who asked for their response to be kept confidential. 91 of the responses were from LAs, 8 from schools forums and 52 from other bodies. "Other" respondents included maintained schools, academies, parents and SEND campaigning organisations. One LA auditor responded – Grant Thornton.

There was a substantial majority among all respondents in favour of all three proposals, ranging from 73% on Question 2 to 59% on Question 3. The majority in favour among LAs was even bigger, ranging from 91% on Question 2 to 65% on Question 3.

The most common reasons for opposing the first proposal were that it would reduce local authority autonomy and a concern that it might prevent local authorities from meeting the needs of pupils with special education needs and disabilities (SEND). Opposition to proposal 2 came mostly from schools. A number of local authorities supported proposal 1 but said this was subject to comments they had made under Question 3 about the need to strengthen the proposed arrangements to satisfy Chief Finance Officers and auditors.

Question analysis

Question 1

Do you agree that we should change the conditions of grant so that future arrangements for dealing with DSG overspends are worded as follows:

- the local authority must carry forward the whole of the overspend to the schools budget in future years;*
- the local authority may not fund any part of the overspend from its general resources, unless it applies for and receives permission from the Secretary of State to do so.*

Response	Number	%	Local authority	Schools forum	Other
Yes	102	67	76	3	23
No	39	25	7	5	27
Not sure	11	7	7	0	4
Not answered	1	1	1	0	0

Respondents who agreed with the proposal felt that this change would provide clarity about the treatment of overspends in Local Authority accounts.

The revised conditions of grant would help LAs, schools and the schools forum to have clarity about the funding available. This would facilitate discussion with schools forums and schools to ensure appropriate mechanisms are in place to minimise the risk of future DSG pressures and increasing DSG deficits. This would be particularly important with regard to the High Needs Block where many LAs are experiencing significant pressures.

Several respondents called for the Department to issue guidance on expected actions by LAs, schools and schools forums in terms of managing the length of time deficits are held for, actions required, and monitoring of progress.

Many respondents who agreed with the proposal and some who were not sure said that the proposal needed to be strengthened, so that it was clearer both that the requirement to carry a deficit forward from year to year was statutory and that the Department would if necessary assist LAs who were unable to clear a historic deficit from their future DSG income.

The majority of respondents who disagreed with the proposal were bodies other than

LAs and schools forums. One concern was that mainstream schools would ultimately suffer if an LA continues to carry a DSG deficit, and would need to contribute to eliminating the deficit. Another was that LAs would not be able to carry out their high needs duties if they were unable to draw on general funds.

Some respondents requested that reforms to the management of overspends on the DSG should be postponed until the Department has completed the SEND review.

Some LAs considered that the proposal was taking away their autonomy to manage their own budgets and opposed the principle of doing that.

Question 2

Do you agree that we should delete regulations 8(6) and 8(10) from the new School and Early Years Finance (England) Regulations for the financial year 2020-21, so that local authorities are able to carry forward any DSG overspend to the schools budget in future years as the new conditions of grant will require?

Response	Number	%	Local authority	Schools forum	Other
Yes	111	73	83	4	24
No	33	22	4	4	25
Not sure	8	5	3	0	5
Not answered	1	1	1	0	0

Respondents who agreed with the proposal commented that it made sense that if DSG overspends had to be carried forward, it should not be within the power of the local schools forum to block the carry forward. The change would provide clarity and all LAs and school forums would work on the same basis.

Respondents who disagreed with the proposal did so mostly on the basis that the LA should not be prevented from using general funds to cover overspends in the schools budget. Some also commented that the schools forum should still have a role in this process so that there is adequate governance for DSG spending, or that local checks and balances through the schools forum were important.

Question 3

Do you agree that the proposed new conditions of grant and regulations will establish clearly that local authorities will not be required to cover any DSG deficit from general funds?

Response	Number	%	Local authority	Schools forum	Other
Yes	90	59	59	5	26
No	40	26	20	2	15
Not sure	21	14	11	1	9
Not answered	2	1	1	0	1

The majority of the respondents answered yes to this question, but there were additional comments such as:

- it is important that the overall DSG High Needs funding allocation is sufficient.
- the consequences for all residents including vulnerable children and adults of enforcing conditions that pass liability onto the LA would be very serious - if local authorities were required to fund DSG overspends from the General Fund, it is not inconceivable that this could lead the S151 officer to issue a S114 notice (a S114 notice is a declaration that an LA's expenditure in a financial year is likely to exceed the resources available to it to meet that expenditure).
- if DSG deficits can therefore only be recovered from future DSG income it will be crucial that timescales for this recovery are set by the LA (in consultation with the schools forum) and submitted for approval by the DfE.

Many of those who answered no to the question said that the proposals would need to be amended, in particular to strengthen the statutory backing for the ring-fence. A few bodies other than LAs or schools forums claimed that the proposals could prevent LAs from carrying out their legal duty to fund SEN provision.

Government response

The overall response to the consultation was positive, especially on the part of LAs. Consequently the Government intends to proceed with implementing the proposals.

It was however clear from the views of key stakeholders that the proposals needed strengthening in two respects: giving statutory backing to the new ring-fence arrangements, and clarifying that, where LAs were otherwise unable to clear their DSG deficits, the Department would agree a plan of action with them to enable these LAs to pay off their deficit over time.

We are achieving this strengthening through three changes.

Statutory backing

Instead of making changes only to the conditions of grant as we had proposed in the consultation, to clarify the ring-fenced status of DSG and how DSG deficits must be handled, we are now putting provisions into the School and Early Years Finance (England) Regulations 2020 which will come into force in February 2020. We will as proposed delete regulations 8(6) and 8(10) which required schools forum approval for the carrying forward of deficits, but we will replace them with new provisions as follows:

“Schedule 2, insert new part 8 under the heading “Deficit from previous funding period”.

Expenditure in relation to any deficit in respect of the local authority’s schools budget from the previous funding period.

Insert at an appropriate place in regulation 8 new paragraphs as follows:

(x) Where a local authority has expenditure falling within Part 8 of Schedule 2, it must –

(i) deduct all of that expenditure from its schools budget

(ii) deduct such part of that expenditure as the authority may determine and carry forward the remaining part to the next funding period; or

(iii) carry forward all of that expenditure to the next funding period.

(y) A local authority may apply to the Secretary of State for authorisation under regulation 31(1) to disregard the requirements in paragraph (x)”

The impact of these statutory provisions will be that an LA with a DSG deficit from the previous year must either:

- (i) carry the whole of the deficit forward to be dealt with in the schools budget for the new financial year (deducting all of it under (x)(i) from the money available for that financial year);
- (ii) carry part of it forward into the new financial year and the rest of it into the following financial year (using (x)(ii));
- (iii) carry all of it into the following financial year (using (x)(iii)); or
- (iv) apply to the Secretary of State under (y) for authorisation to disregard the requirements in (x) if it wishes to fund any part of the deficit from a source other than the DSG.

This will make it entirely clear on a statutory basis that a DSG deficit must be carried forward to be dealt with from future DSG income, unless the Secretary of State authorises the LA not to do this.

We will still make corresponding changes to the conditions of grant to bring them into line with the regulations.

So under the new arrangements set out in the School and Early Years Finance (England) Regulations 2020 and in the DSG conditions of grant for 2020-21, LAs will have either to carry forward any cumulative deficit in their schools budget to set against DSG in the next funding period (Y+1); or carry forward some or all of the deficit to the funding period after that (Y+2), in order to determine how much resource is available to be spent during the funding period (Y+1). These arrangements will begin to operate from budget setting for the financial year 2020-21 and will therefore affect any deficits held at the end of 2019-20 (we will amend the conditions of grant to make this entirely clear). The same provisions will appear in future regulations so that LAs can continue to carry deficits forward from year to year.

The effect of these provisions is that LAs will not be permitted to fund any part of the deficit from sources other than the DSG (and any specific grants whose conditions allow them to be applied to the schools budget) without the authorisation of the Secretary of State. If a LA wishes to use other sources, it must apply to the Secretary of State for authorisation to disregard the new arrangements. We would not wish to place barriers in the way of LAs that have used other sources to supplement the DSG for particular reasons such as PFI costs; or of LAs who want voluntarily to use small annual sums in support of their high needs budgets.

Clarification of financial support for LAs

In the financial year 2020-21 the total allocated to the high needs block within the DSG is rising by 12%. Overall funding for schools and high needs, compared with 2019-20, is increasing by £4.8bn in 2021-22 and £7.1bn in 2022-23, and will need to be split between schools and high needs. In making that decision we will be mindful of the pressures on high needs.

The SEND review (see <https://www.gov.uk/government/news/major-review-into-support-for-children-with-special-educational-needs>) will also report during 2020, and has been tasked with looking at how to arrive at a fair and sustainable system of high needs support for the future.

In the context of rising high needs funding over the next few years, the Department expects that most of those LAs with a DSG deficit will be able to bring their high needs budget into in-year balance, and go on to recover the deficit by managing their expenditure within the larger DSG total. The Department will work with LAs to help them do this.

The Department recognises that this process will be difficult for some LAs. As we have previously said, we intend to review the funding formula for high needs over the next year or two, and in doing so will take account of the patterns of expenditure that LAs' deficits, alongside other evidence, will help to identify; and what they tell us about LAs' need to spend. As part of the review, we will identify any changes needed to the current formula so that it reflects LAs' need to spend.

Nonetheless, we recognise also that there may well be some LAs which, even if they can stabilise their in-year expenditure on high needs, will still not be able to pay off their historic deficit within a reasonable time. The Department will set criteria and will need convincing evidence from LAs that this is the case. Where the criteria are met, the Department will agree a plan of action with the LA to enable it to pay off its deficit over time. The plan will include appropriate additional conditions of grant designed to secure the most efficient use of resources. These would depend on the situation and context, but could include – for example – changes to local SEND policy or practice, management change or sign off of budget plans by the Department.

Dealing with cashflow problems

The new arrangements set out in this document will clarify the procedures for LAs to carry DSG deficits forward from year to year. The Department recognises, however, that LAs could experience cashflow difficulties in actually financing in-year spending. If an LA is able to prove that it has such cashflow problems, the Department will be willing to consider bringing forward funding which would then be subtracted from future years' allocations. Again, this would be subject to appropriate additional conditions of grant to secure the most efficient use of resources.

Responses on other points

Some respondents said that the proposals would reduce the autonomy of LAs. That is to a degree true, but only where the LA has a DSG deficit. We judge that this reduction of autonomy is justified in order to clarify the ring-fenced status of DSG.

Some respondents said that the schools forum should still have a role in deciding whether DSG deficits should be carried forward. We do not think that this is a practical arrangement once the carry forward becomes mandatory. LAs should however work closely with their schools forums on their plans for managing DSG deficits: we are adding that to the DSG conditions of grant.

Some respondents requested that the proposals should be postponed until after the SEND review has been completed. However, we believe that the changes will bring positive impact for local authorities in 2020-21 and should therefore be implemented now.

Some respondents argued that the burden of bringing DSG expenditure into line with resources over time would fall on mainstream schools. The Government has already set limits on the amount of resource that can be moved out of the DSG Schools Block, and intends to move further towards a hard formula, where mainstream schools are guaranteed to receive their allocations under the National Funding Formula.

Finally, some respondents argued that the changes would prevent LAs from carrying out their legal duties to fund SEND. The Department does not accept that. The duty to fund SEND under the 2014 Children and Families Act is unaffected, and the only change is that the cost must in the end be met from successive years' DSG allocations, unless the Secretary of State authorises that the LA can meet some of it from other funds.

Public sector equality duty

In making decisions on the consultation Ministers have had regard to the public sector equality duty under section 149 of the Equality Act 2010. The protected characteristic most obviously relevant to this consultation is disability. If the proposals in the consultation are not implemented, LAs are likely to come under pressure to reduce their spending, and may look particularly at making short term and unplanned reductions to spending on those with SEND. Implementing the proposals is therefore likely to be beneficial to this group. We do not believe that implementation will have a significant detrimental effect on those that share any other protected characteristic.

Next steps

The School and Early Years Finance (England) Regulations 2020 will come into force in February 2020. The Department will amend the DSG conditions of grant for both 2019-20 and 2020-21 to bring them into line with the new end-year arrangements for carrying forward DSG deficits.

CIPFA, MHCLG and the Department are working on issuing guidance about the changes.

The Department will remain in contact with those LAs who have significant DSG deficits in order to offer advice and help on their future handling: we are providing for these arrangements in the DSG conditions of grant.

Annex A: List of organisations that responded to the consultation

Local Authorities:

- Barnsley Metropolitan Borough Council
- Bath and North East Somerset Council
- Blackburn with Darwen Borough Council
- Bournemouth, Christchurch and Poole Council
- Bracknell Forest Council
- Brighter Futures for Children (on behalf of Reading Borough Council)
- Brighton & Hove City Council
- Bristol City Council
- Buckinghamshire County Council
- Calderdale Metropolitan Borough Council
- Cambridgeshire County Council
- Central Bedfordshire Council
- Cheshire East Council
- Cumbria County Council
- Devon County Council
- Doncaster Metropolitan Borough Council
- Durham County Council
- East Riding of Yorkshire Council
- East Sussex County Council
- Essex County Council
- Halton Metropolitan Borough Council
- Hampshire County Council
- Hartlepool Borough Council
- Herefordshire Council
- Hertfordshire County Council
- Isle of Wight Council
- Kent County Council
- Kirklees Council
- Lancashire County Council
- Leeds City Council
- Leicester City Council
- Leicestershire County Council
- Lincolnshire County Council
- Liverpool City Council
- London Borough of Barking & Dagenham
- London Borough of Bromley
- London Borough of Hackney
- London Borough of Havering
- London Borough of Lewisham
- London Borough of Newham
- London Borough of Richmond upon Thames
- London Borough of Sutton

- London Borough of Tower Hamlets
- London Borough of Waltham Forest
- London Borough of Wandsworth
- Manchester City Council
- Medway Council
- Milton Keynes Council
- Newcastle City Council
- Norfolk County Council
- North Somerset Council
- North Tyneside Council
- Nottingham City Council
- Nottinghamshire County Council
- Oldham Metropolitan Borough Council
- Oxfordshire County Council
- Plymouth City Council
- Redcar and Cleveland Borough Council
- Rotherham Metropolitan Borough Council
- Royal Borough of Kensington & Chelsea
- Royal Borough of Kingston upon Thames
- Rutland County Council
- Salford City Council
- Sefton Council
- Slough Borough Council
- Solihull Metropolitan Borough Council
- Somerset County Council
- South Gloucestershire Council
- South Tyneside Council
- Southend on Sea Borough Council
- St Helens Council
- Stockton-on-Tees Borough Council
- Suffolk County Council
- Surrey County Council
- Swindon Borough Council
- Thurrock Council
- Trafford Council
- Wakefield Metropolitan Borough Council
- Warrington Borough Council
- Warwickshire County Council
- Westminster City Council
- Wigan Council
- Wiltshire County Council
- Worcestershire County Council

School Forums

- Birmingham Schools Forum
- Oxfordshire Schools Forum
- Wiltshire Schools Forum
- Warwickshire Local Authority Schools Forum x2

Other Interested Parties

- Ambitious about Autism
- Buttsbury Infant School
- Buttsbury Junior School
- Castletown Primary School
- Catholic Education Service
- Central Learning Partnership Trust
- Christ Church C.E. Primary School
- Downs View School
- Effervesce
- Grant Thornton UK LLP
- Hackney Special Education Crisis
- Inclusion East, Hertfordshire
- Kemnal Academies Trust
- MFG Academies Trust
- National Deaf Children's Society
- North Worcestershire Autism Parents Support Group
- Reading local family forum
- Send National Crisis
- Send National Crisis - Hammersmith and Fulham
- Society of County Treasurers
- Society of London Treasurers
- St Catherine's Primary School
- Weald of Kent Grammar School
- Woodlands Academy School
- Wentworth Nursery School
- Wildern Academy Trust
- Valance School



Department
for Education

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Summary Sheet

Committee Name and Date of Committee Meeting

School Forum

Report Title

Updates to the High Needs Block from 2020/21 ESFA Guidance

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Sally Hodges– DCS CYPS

Report Author(s)

Neil Hardwick - Head of Finance

Ward(s) Affected

All

Summary

High needs funding is provided to local authorities through the high needs block of the dedicated schools grant (DSG). Local authorities must spend that funding in line with the associated conditions of grant, and School and Early Years Finance Regulations. High needs funding is also provided directly to some institutions by the Education and Skills Funding Agency (ESFA).

The high needs funding system supports provision for children and young people with special educational needs and disabilities (SEND) from their early years to age 25, enabling both local authorities and institutions to meet their statutory duties under the Children and Families Act 2014. High needs funding is also intended to support good quality AP for pre-16 pupils who, because of exclusion, illness or other reasons, cannot receive their education in mainstream or special schools. The high needs funding block provides local authorities with resources for place funding and top-up funding for institutions, and funding for high needs services delivered directly by the authority or under a separate funding agreement with institutions (including funding devolved to institutions), as permitted by regulations.

The purpose of this report to provide clarity on the place funding process to educational institutions, changes to the ESFA High Needs Block 2020/21 Operational Guidance and enhancements to the current local authority processes.

Recommendations

- 1.1 School Forum note the process to agree initial place funding with educational institutions and the requirements to agree additional in year funding as detailed in the ESFA 2020-21 High Needs Funding Operational Guidance.
- 1.2 School Forum agree the proposed enhanced processes to confirm import / export places with each education institution and where incorrect action the enquiry process through the ESFA.

List of Appendices Included

Appendix 1 - ESFA Example - Where pupil and student numbers exceed allocated places

Appendix 2 - ESFA - High Needs Funding: 2020 to 2021 Operational guide

Background Papers

ESFA - High Needs Funding: 2019 to 2020 Operational guide

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Update to Payment Process for Element 3 (Top Up) Funding for High Needs Learners

1. Recommendations

- 1.1 School Forum note the process to agree initial place funding with educational institutions and the requirements to agree additional in year funding as detailed in the ESFA 2020-21 High Needs Funding Operational Guidance.
- 1.2 School Forum agree the proposed enhanced processes to confirm import / export places with each education institution and where incorrect action the enquiry process through the ESFA.

2. Background

- 2.1 As outlined in the ESFA's High Needs Block Operational Guidance, the high needs funding system supports provision for children and young people with special educational needs and disabilities (SEND) from their early years to age 25, enabling both local authorities and institutions to meet their statutory duties under the Children and Families Act 2014. High needs funding is also intended to support good quality AP for pre-16 pupils who, because of exclusion, illness or other reasons, cannot receive their education in mainstream or special schools.
- 2.2 The High Needs Block (HNB) provides local authorities with resources for place funding and top-up funding for institutions, and funding for high needs services delivered directly by the authority or under a separate funding agreement with institutions (including funding devolved to institutions), as permitted by regulations.
- 2.3 Although many of the pupils and students receiving high needs funding will have EHC plans, local authorities have the flexibility to provide high needs funding outside the statutory assessment process for all children and young people with high needs up to the age of 19.
- 2.5 Local authorities bear the ultimate responsibility for decisions on top-up funding, as they are accountable for spending from their high needs budgets. In all instances, pupils or students with an EHC plan must have their placement commissioned by a local authority and an agreement should be in place between the local authority and the institution that confirms the amount of top-up funding to be paid. Even where provision is specified in an EHC plan, there is no statutory requirement that a local authority has to pay top-up funding at a particular rate requested by a school or institution.
- 2.6 Local authorities' expenditure from the DSG is subject to conditions of grant set by the department, which govern the way high needs funding is used.

3. Key Issues

- 3.1 Clarity on pupil places and the process to agree the initial places through the High Needs Learner Return for academies, post 19 and independent sector placements. Maintained school places are determined at the same time but through the budget setting process and linked to current place numbers.
- 3.2 Outline responsibilities between the Commissioning & Provider Authority where the agreed pupil place numbers have been exceeded.
- 3.3 Improved understanding of the import / export adjustments to each educational institution within Rotherham and introduce processes to validate the adjustments are correct and pursue rectification from ESFA where it is incorrect.

4. Clarity, Actions & Proposals

Place Funding - Number of Places Commissioned

- 4.1 The DfE have clarified certain aspects of this guidance, particularly relating to the sections on place and top up funding. Place funding should broadly reflect both local authorities' recent commissioning activity and strategic planning to secure suitable SEND provision and AP, in line with their statutory responsibilities. In determining the number of funded places, local authorities should consider all high needs providers in their area and take account not only of their own commissioning decisions but also of the commissioning decisions of other local authorities. In the case of AP, local schools' commissioning activity and plans should also be considered.
- 4.2 Place funding is allocated as an annual amount of core funding. Once place funding is allocated, it is not associated with or reserved for a specific local authority or individual pupil or student. It is for the institution to decide how best to apportion their total allocated core funding across the actual number of places commissioned by local authorities, taking into account the provision and support that may be specified in the individual pupils' or students' EHC plans.
- 4.3 Place funding is not withdrawn if an individual does not occupy a funded place. It provides institutions with a guaranteed budget for the year and gives them a degree of financial stability. A local authority may not seek to recover funding for places which it perceives as being unused from the previous or current academic year. Similarly, local authorities should not automatically be charged an extra £6,000 or £10,000 per head top-up funding for a pupil or student with high needs, if an institution has filled all funded places (irrespective of which local authority has filled them).
- 4.4 Dialogue between local authorities and institutions is important when preparing for the allocations of high needs place funding to institutions. Local authorities should consult with institutions in their area and discuss both current numbers of places being taken up, which will be included on the school census and ILR returns, and the number of places required in future. Where an institution believes it is not being funded for the correct number of places it should raise this with the provider local authority. These discussions must take into account the

total number of places required to meet the needs of all local authorities, not just those of the local authority in which the institution is located. This is particularly important for FE institutions and special schools as the import/export adjustment should ensure that funding in the local authority's DSG reflects those pupils and students with high needs resident in one local authority area that attend institutions in other areas.

Place Funding - In Year Adjustments

- 4.5 In the event that the number of places commissioned change after the annual processes above have been followed, ESFA are unlikely to revise allocations to academies or post-16 institutions. We recognise that often the number of funded high needs places and actual pupils or students will vary. However, as explained earlier, place funding is not reserved for individuals and it is for institutions to apportion the total allocated place funding across the actual number of pupils and students with high needs. In most cases, the variance between place numbers and pupils or students is small with no, or marginal, impact on cost.
- 4.6 An institution should approach the provider local authority if the number of pupils or students, agreed as having high needs by the relevant local authority, exceeds the number of funded places to an extent that results in the institution incurring additional costs of special provision not met through the top-up funding amount normally paid. We expect the provider local authority to engage with the institution and agree how the costs of the additional special provision required are to be met, and these conversations should take place as early as possible in the academic year.
- 4.7 The provider local authority should not automatically be charged an additional £6,000 or £10,000 per pupil or student. The amount should reflect the actual costs of making additional special provision available, which may only be marginal, and an agreement between the provider local authority and the institution on how those costs are to be met. The import/export adjustment compensates the provider local authority for actual pupils or students living in other local authority areas who attend the institution, albeit in the subsequent financial year. This will avoid the position where the commissioning local authority effectively funds twice – both through increased top-up funding direct to the institution and through the £6,000 import/export adjustment in the national funding formula. These arrangements apply in particular to FE institutions and special schools that are experiencing year-on-year growth in the number of pupils and students with high needs that they admit.

Import / Export Adjustments

- 4.8 The majority of the high needs national funding formula is designed to allocate funding to local authorities for the needs of the children and young people who live in the local authority's area, regardless of where they are educated. However, the ESFA recognise that local authorities face higher costs if they attract more pupils and students with high needs who live outside the local authority area into their schools and colleges (counted as 'imports' in the formula calculation), for example because they are expected to pay for the costs of high needs places in schools and colleges in their area. Conversely, authorities that 'export' pupils and students to other local authority places face

lower costs. The ESFA have therefore included an import/export adjustment in the High Needs Block funding formula that reflects the movement of high needs pupils and students between local authorities, where they live in one authority and attend a school or college in another.

- 4.9 The calculation uses school census and ILR data and compares the number of 'imported' and 'exported' pupils for each local authority. Where the imports and exports balance, the cost to the local authority is neutral and no adjustment is made. Where there are more imports than exports, or vice versa, a positive or negative adjustment is made using a unit value of £6,000. The pupils and students counted in the calculation of the adjustment are as follows:
- from the January school census (age 4 to 18)
 - pupils with top-up funding in mainstream schools and academies
 - pupils in special schools and academies
 - pupils in non-maintained special schools
 - from R06 ILR (age 16 to 18 and 19 to 24-year olds with EHC plans)
 - students in SPIs
 - students with top-up funding in FE institutions
- 4.10 The import/export adjustment does not use any data relating to pupils in AP as the data is not accurate enough for making the adjustments. Taking into account the development of policy on AP, ESFA will explore more widely whether any consequential changes to the funding formula should be considered.
- 4.11 In relation to looked after children (LAC), the current financial arrangements are on the basis that the local authority responsible for securing the provision specified in an education, health and care (EHC) plan is the authority in whose area the young person is ordinarily resident, as is normally the case. Consequently, the import/export adjustment in the high needs national funding formula is based on school census or ILR data using the local authority area in which a pupil or student is resident.
- 4.12 It is imperative that the import / export adjustments as outlined in the section and detailed in 4.9 are validated by institutions following receipt of the information by the local authority in early June to ensure funding adjustments have been actioned correctly by the ESFA. This will ensure funding has been provided for appropriately in the HNB to passport funding to relevant institutions.
- 4.13 To ensure the import / export data is correct the Schools Finance Team will contact each education institution within Rotherham with their import adjustments to validate they are correct or request evidence to pursue revision of the import numbers with the ESFA.
- 4.14 The exported pupil numbers will be validated with the Education Health Care Team and again any discrepancies communicated with the ESFA for update.

5. Timetable and Accountability for Implementing this Decision

5.1 That colleagues note the annual process for agreement of place numbers and associated funding as outlined in the report.

6. Financial and Procurement Implications

6.1 The purpose of the report is to inform School Forum and education providers of the process for agreeing commissioned place numbers and any in year funding adjustments if original commissioned places are exceeded.

6.2 There are no financial implications in relation to this report.

7. Legal Implications

7.1 There are no legal implications.

8. Human Resources Implications

8.1 There are no HR implications.

9. Implications for Children and Young People and Vulnerable Adults

9.1 The overarching aim is to provide top-up funding to educational institutions in a timely fashion, with a payment schedule which provides clarity on the students the provider is receiving top up funding.

10 Equalities and Human Rights Implications

10.1 There are no implications.

11. Implications for Partners and Other Directorates

11.1 There will be no direct implication other than consideration will be given to how we can support each other around workforce development.

12. Risks and Mitigation

12.1 The ESFA - High Needs Funding: 2020 to 2021 Operational Guidance outlines the process local authorities must follow to allocate funding to institutions and on the basis numbers are agreed with the institution. The recommendations in this report supports the council in meeting these obligations.

13. Accountable Officer(s)

Approvals Obtained from:-

	Named Officer	Date
Strategic Director of Finance & Customer Services	Neil Hardwick	

Service Manager of Legal Services	Linton Steele	
Head of Procurement (if appropriate)	Kare Middlebrook	
Head of Human Resources (if appropriate)	Amy Leech	

Report Author: Name, Job Title

Neil Hardwick – CYPS Head of Finance

ESFA Example - Where pupil and student numbers exceed allocated places

The following is an example of how the high needs funding arrangements should operate when an institution has more pupils or students with high needs than the number of places for which it has been funded. Although it is illustrated using a college located in a local authority area (the provider local authority) with several other local authorities also commissioning places, similar arrangements may also apply to other institutions, including special academies. The example illustrates how the place funding for institutions and consequent deductions from local authorities' high needs allocations and the import/export adjustment work together. This shows the flow of high needs funding between local authorities and institutions when an institution has to make additional special provision for a number of pupils or students that exceeds the funded place number.

Following discussion with the college, and where there is a change from the previous academic year, the provider local authority submits the total high needs place numbers to the ESFA in November, in advance of the start of the academic year, through the place change notification process. In this example the local authority and college have agreed on 100 places for the 2020 to 2021 academic year and this includes places to be filled by high needs students from all local authorities. The number of places to be funded is published in January by ESFA and during the subsequent enquiry window the college and local authorities check the number and are content it reflects the discussions.

ESFA issues an allocation to the college in March in advance of the academic year reflecting the 100 place numbers, providing £600,000 high needs funding, (100 places x £6,000 element 2 funding). The provider local authority's DSG will also be updated and 100 places deducted from their high needs allocation at £6,000 per place, pro-rata for the academic year, based on August to March (100 places x £4,000).

The commissioning local authority (i.e. the authority in which the student is ordinarily resident) agrees top up funding with the college directly. The provider local authority (if not commissioning the place) and ESFA do not need to be involved in these conversations. We would encourage neighbouring local authorities to collaborate on the special provision required for their students, and on associated commissioning arrangements and top-up funding levels.

In this example, in the lead up to the academic year, several local authorities have commissioned further high needs places in excess of the 100 places that the college has received (element 2) funding for. The college therefore has 120 high needs students at the start of the academic year, and it doesn't matter which local authorities fill these places because place numbers are not reserved for individual pupils or specific local authorities. This has resulted in additional costs for the special provision required by these 20 students that the college cannot meet through its existing funding streams, which include the £600,000 high needs place funding in their allocation and standard top-up funding rates in respect of the 120 high needs students.

The college therefore discusses with the provider local authority the scale of the additional special provision that it is being expected to make available and the costs involved. It is agreed that the provider local authority will fund a further £50,000 through a local agreement to contribute to the additional costs incurred by the college. This is to help meet the additional costs of making the provision required by the additional students, on top of the normal funding streams. These costs could be marginal, and we would not necessarily expect the provider local authority to have to pay an extra £6,000 for every extra student placed over and above the colleges 100 places.

The provider local authority should be compensated for the costs of the high needs places filled by students resident in other local authorities, including the additional 20 students, through the import/export adjustment in the 2021 to 2022 financial year. In this example, 50 students live in other local authorities. This is recorded on the college's ILR and +£300k (50*£6k) will therefore contribute to the provider local authority's net import/export adjustment in their DSG.

66. It is important to note that this example is provided for a college and some details may vary depending on the institution or place type.

Summary Sheet

Committee Name and Date of Committee Meeting
Rotherham Schools' Forum – 26th June, 2020

Report Title

Enhancements to payment of Element 3 (Top-Up) Funding for High Needs Learners

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Sally Hodges– DCS CYPS

Report Author(s)

Neil Hardwick - Head of Finance

Ward(s) Affected

All

Summary

Element 3 Top-up payments are currently being made to Rotherham schools and academies on a monthly basis, with other educational institutions invoicing the local authority.

The proposal is to widen the top-up payments to cover all maintained schools, academies, Pupil Referral Units and Further Education providers on a monthly basis in arrears which will ensure that Rotherham complies to the ESFA - High Needs Funding: 2020 to 2021 Operational guide.

To provide all educational institutions with a detailed payment schedule which will outline each student's top-up payment to inform schools who they have received payment. The document will also enable updates from each institution to inform Rotherham of any new starters and leavers which can then be reviewed and if approved amended on next month's payment.

Recommendations

- 1.1 To approve the enhancements to the payments process of Element 3 (Top up Funding) from the DSG High Needs Block to all mainstream, special schools, PRU's and Further Education institutions for all Rotherham High Needs Learners (HNL's)

List of Appendices Included

Element 3 (Top-Up) Funding Template

Background Papers

ESFA - High Needs Funding: 2020 to 2021 Operational guide

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Update to Payment Process for Element 3 (Top Up) Funding for High Needs Learners

1. Recommendations

- 1.1 To approve the enhancements to the payments process of Element 3 (Top up Funding) from the DSG High Needs Block to all mainstream, special schools, PRU's and Further Education institutions for all Rotherham High Needs Learners (HNL's)

2. Background

- 2.1 As outlined in the ESFA's High Needs Block Operational Guidance, the high needs funding system supports provision for children and young people with special educational needs and disabilities (SEND) from their early years to age 25, enabling both local authorities and institutions to meet their statutory duties under the Children and Families Act 2014. High needs funding is also intended to support good quality AP for pre-16 pupils who, because of exclusion, illness or other reasons, cannot receive their education in mainstream or special schools.
- 2.2 The high needs funding block provides local authorities with resources for place funding and top-up funding for institutions, and funding for high needs services delivered directly by the authority or under a separate funding agreement with institutions (including funding devolved to institutions), as permitted by regulations.
- 2.3 Top-up funding is the funding required, over and above the core funding an institution receives, to enable a pupil or student with high needs to participate in education and learning. This is paid by the commissioning local authority and should reflect the costs of additional support to meet the individual pupil or student's needs. Top-up funding can also reflect costs that relate to the facilities required to support a pupil's or student's education and training needs (either for individuals or on offer to all) and can take into account expected place occupancy levels and other factors.
- 2.4 Although many of the pupils and students receiving high needs funding will have EHC plans, local authorities have the flexibility to provide high needs funding outside the statutory assessment process for all children and young people with high needs up to the age of 19.
- 2.5 Local authorities bear the ultimate responsibility for decisions on top-up funding, as they are accountable for spending from their high needs budgets. In all instances, pupils or students with an EHC plan must have their placement commissioned by a local authority and an agreement should be in place between the local authority and the institution that confirms the amount of top-up funding to be paid (as set out below). Even where provision is specified in an EHC plan, there is no statutory requirement that a local authority has to pay top-up funding at a particular rate requested by a school or institution.

- 2.6 Local authorities' expenditure from the DSG is subject to conditions of grant set by the department, which govern the way high needs funding is used. For example:
- local authorities must treat those placed in maintained provision, in academies and free schools, in the further education sector, and in non-maintained and independent provision on a fair and equivalent basis when making arrangements for funding young people with high needs.
 - local authorities must make payments of top-up funding to institutions in a timely fashion and on a basis agreed with the institution; payments must be monthly unless otherwise agreed (such as termly in advance)
 - institutions should contact ESFA where there are problems reaching agreement or receiving timely payments
 - ESFA will examine cases and consider remedial action where there is clear evidence that a local authority is not meeting the required conditions of grant

3. Key Issues

- 3.1 Issues with education institutions not always invoicing on a regular basis, rates being queried and eligibility of student top-up payments is leading to delays in processing of some payments.
- 3.2 Queries from schools and academies as to which pupils they have received top-up payments for as they do not receive a remittance advice.
- 3.3 Accuracy of the data on Capita One are expected to be improved as discrepancies between institutions and Rotherham's data.
- 3.4 To provide greater clarity on Element 3 Top-Up Funding the annual agreed funding is to be paid across 11 months with no payment for August. Any new starters or leavers will receive a month payment prorata to the calendar days in the month their placement starts or ends.
- 3.5 It is a requirement of the ESFA - High Needs Funding: 2020 to 2021 Operational guide to make payments of top-up funding to institutions in a timely fashion and on a basis agreed with the institution; payments must be monthly unless otherwise agreed.

4. Options considered and recommended proposal

- 4.1 To extend the monthly top-up payments to cover all maintained schools, academies, Pupil Referral Units and Further Education providers supporting Rotherham High Needs Learners (HNL's).
- 4.2 To introduce a Top-Up Funding Payment Schedule to enable clarity on students the payment relates and enable feedback from the provide on new starters and leavers, see Appendix 1 for details.

- 4.3 To agree the annual top-up funding to be paid in 11 monthly payments as outlined in para 3.4

5. Consultation

- 5.1 The recommended proposal has been piloted with RNN and two Sheffield schools, who are very happy with the process.
- 5.2 This report is to be submitted to School Forum to inform them of the new proposed process which will enable Rotherham to comply with ESFA guidance.

6. Timetable and Accountability for Implementing this Decision

- 6.1 It is proposed that the first payment with the new payment schedule is actioned at the end of May

7. Financial and Procurement Implications

- 7.1 The Element 3 Top-up Funding is approximately £13m per annum and the implementation of a monthly payment schedule extended across more educational institutions will improve monitoring of the High Needs Block.
- 7.2 There are no financial implications.

8. Legal Implications

- 8.1 There are no legal implications.

9. Human Resources Implications

- 9.1 There are no HR implications.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 The overarching aim is to provide top-up funding to educational institutions in a timely fashion, with a payment schedule which provides clarity on the students the provider is receiving top up funding.

11 Equalities and Human Rights Implications

- 11.1 There are no implications.

12. Implications for Partners and Other Directorates

- 12.1 There will be no direct implication other than consideration will be given to how we can support each other around workforce development.

13. Risks and Mitigation

13.1 The ESFA - High Needs Funding: 2020 to 2021 Operational guide states that local authorities must make payments of top-up funding to institutions in a timely fashion and on a basis agreed with the institution; payments must be monthly unless otherwise agreed. The recommendation in this report supports the council in meeting these obligations.

14. Accountable Officer(s)

Approvals Obtained from:-

	Named Officer	Date
Strategic Director of Finance & Customer Services	Neil Hardwick	
Service Manager of Legal Services	Linton Steele	12.05.2020. If current practice fails to ensure compliance with ESFA guidance or duties under the 2014 Act there is a risk of legal challenge if proposals are not implemented, a risk which be not be present if the proposals are implemented.
Head of Procurement (if appropriate)	Kare Middlebrook	
Head of Human Resources (if appropriate)	Amy Leech	

Report Author: Name, Job Title

Neil Hardwick – CYPS Head of Finance



Education & Skills
Funding Agency

High needs funding: 2020 to 2021

Operational guide

February 2020

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Purpose

1. This guide describes how the 2020 to 2021 high needs funding system will work for all types of provision. Some sections are also relevant for the ongoing operational arrangements in the current financial and academic year. It's primarily for local authorities and institutions but will also be useful to anyone with an interest in high needs funding.

1.1. We use the term "institution" as a generic term covering all distinct types of provider, including maintained schools, academies and colleges.

Introduction

2. This guide explains how the high needs funding system operates for local authorities and a number of different institution types, including pre-16 alternative provision (AP). It can be used to progress local budget planning and consultations over the autumn term and beyond.

3. High needs funding is provided to local authorities through the high needs block of the dedicated schools grant (DSG). Local authorities must spend that funding in line with the associated conditions of grant, and School and Early Years Finance Regulations. High needs funding is also provided directly to some institutions by the Education and Skills Funding Agency (ESFA).

4. The high needs funding system supports provision for children and young people with special educational needs and disabilities (SEND) from their early years to age 25, enabling both local authorities and institutions to meet their statutory duties under the Children and Families Act 2014. High needs funding is also intended to support good quality AP for pre-16 pupils who, because of exclusion, illness or other reasons, cannot receive their education in mainstream or special schools. The high needs funding block provides local authorities with resources for place funding and top-up funding for institutions, and funding for high needs services delivered directly by the authority or under a separate funding agreement with institutions (including funding devolved to institutions), as permitted by regulations.

5. Funding arrangements for students with SEND who are aged 19 to 25 without an education health and care plan (EHCP) and students who are over the age of 25 are not included in this guide. Links to the funding arrangements for these students are at annex

February 2020 update

Key updates include:

- the updated references to the [2020 to 2021 dedicated schools grant](#) and [School and Early Years Finance \(England\) Regulations 2020](#), which have recently been published

Changes in 2020 to 2021

6. This section sets out some changes to the 2020 to 2021 high needs funding system, although the national funding formula and underpinning operational processes and principles remain largely unchanged from 2019 to 2020. We have clarified certain aspects of this guidance, particularly relating to the sections on place and top up funding.

National funding formula

7. The funding floor factor in the high needs national funding formula for 2020 to 2021 provides for every local authority to receive an underlying increase of at least 8.0% per head of 2 to 18 population. This is based on local authorities' high needs allocations in 2019 to 2020, including the additional £125 million announced in December 2018. These increases are not calculated on elements of the formula that are subject to later updates and are in proportion to estimated population changes (so a projected decrease in population will result in a lower overall cash percentage increase, subject to a cash protection).

8. The limit on gains is set at 17%, allowing authorities to see up to this percentage increase under the formula, again calculated on the basis of per head of population, and using the 2019 to 2020 funding baseline. Full details of the national funding formula for 2020 to 2021 and provisional allocations to local authorities were published in October 2019 and the updated DSG allocations were published in December.

Block movements

9. Local authorities will continue to be able to transfer up to 0.5% of their schools block to other blocks of the DSG, with schools forum approval. A disapplication will be required for transfers above 0.5%, or any amount without schools forum approval; this applies to any transfers over 0.5%, even if approval was given for a transfer in excess of 0.5% previously. More information is available in the schools revenue funding 2020 to 2021 operational guidance.

Special schools minimum funding guarantee

10. A special schools protection will continue to apply to maintained special schools and special academies (including special free schools) in 2020 to 2021. In the context of the increase in high needs funding noted above, the protection is being raised from minus 1.5% to 0% next year. Exceptions can be made, as now, by a request from the local authority to the Secretary of State for a disapplication of the relevant condition of grant. See annex 1 for further information.

Timeline

11. The timeline below shows the implementation of the 2020 to 2021 high needs funding arrangements, including actions for local authorities and institutions.

12. Institutions must ensure the school census or Individual Learner Record (ILR) guidance is followed on all items that are used, or will be used, for funding purposes, including elements of the national funding formula. It's critical that all institutions check the latest guidance to make sure that they understand what is required, including identifying those pupils or students for whom they receive top-up funding.

January 2020

Department for Education:

- 2020 to 2021 high needs place change notification outcomes published on GOV.UK
- 2 week 'enquiry window' for local authorities and institutions to raise place change related issues

Local authorities:

- check published outcomes and ensure queries are discussed with relevant institution(s) and, if necessary, raised during the 2 week 'enquiry window'
 - this should include checking the outcomes for institutions located in other local authorities where a local authority places large volumes of students
- deadline for submitting final 2020 to 2021 authority proforma tool (APT) to ESFA
 - includes pupil numbers on the October 2019 census in RP and SEN units to support the calculation of funding for occupied and unoccupied places

Institutions:

- check 2020 to 2021 funded place numbers are correctly reflected in the published outcomes, ensure any queries are discussed with your local authority and if necessary, raised with ESFA during the 2 week 'enquiry window'
- all schools, including academies, NMSS and PRUs to complete spring 2020 school census

February 2020

Local authority:

- 2-week enquiry window closed for raising queries with ESFA regarding 2020 to 2021 funded place numbers
- review of, and amendments to, an EHC plan must be completed for pupils moving into or between schools in that calendar year
- budgets issued to maintained mainstream schools, special schools and PRUs

Institutions:

- 2-week enquiry window closed for raising queries with ESFA regarding 2020 to 2021 funded place numbers
- FE institutions, ILPs and SPIs to submit 2019 to 2020 ILR R06

March 2020

Department for Education:

- publication of institution level high needs place numbers
- 2020 to 2021 academic year allocations issued to FE institutions, free schools, academies, non-maintained special schools, SPIs and ILPs

Local authorities:

- review of, and amendments to the EHC plan, including specifying the post-16 provision and naming the institution, must be completed for students moving from secondary school to a post-16 institution or apprenticeship, in that calendar year
- complete EHC plan review process for students moving between post-16 institutions, where a young person is expected to transfer to a new institution in the new academic year

Institutions:

- check allocation is received and is correct

April 2020

Department for Education:

- DSG update, to reflect the outcome of the place change notification process in high needs place deductions (DSG allocations updated termly for in-year academy conversions)

June 2020

Department for Education:

- further 2020 to 2021 DSG updates to reflect final institution level allocation decisions, import and export adjustments and special free school adjustments

Local authorities:

- review import/export data

Institutions:

- FE institutions, ILPs and SPIs to submit 2019 to 2020 ILR R10

Funding for schools and high needs: the DSG

The dedicated schools grant (DSG)

13. The DSG is the main source of government funding for the provision of education by local authorities and institutions in England. Its use is governed by the conditions of grant, one of which requires the grant to be spent in accordance with the School and Early Years Finance Regulations. The DSG cannot be used for other purposes.

14. The Early Years Finance Regulations: are made under sections 45A(1), 45AA(2), 47(3), 47ZA(4), 47A(4B) and (5)(5), 48(1) and (2)(6), 49(2) and (2A)(7), 138(7) of, and paragraph 2B(8) of Schedule 14 to the School Standards and Framework Act 1998(9) and section 24(3) of the Education Act 2002.

15. The DSG is divided into four notional blocks – the schools block, the high needs block, the central school services block (which allocates funding to local authorities for their ongoing responsibilities towards both maintained schools and academies), and the early years block. Each of the four blocks of the DSG are determined by a separate national funding formula.

16. Local authorities can transfer funding between the high needs or early years funding blocks but should ensure adequate consultation with the schools forum and providers likely to be affected by the transfer. The schools block will again be ring-fenced in 2020 to 2021, but local authorities can transfer up to 0.5% of their schools block to other blocks of the DSG, with schools forum approval. A disapplication will be required for transfers above 0.5%, or any amount without schools forum approval; this applies to any transfers over 0.5%, even if approval was given for the same amount to be transferred this year or last year. Further information is included in the movement between blocks section of the schools revenue funding 2020 to 2021 operational guide.

17. In consultation with their schools forum, local authorities make decisions about the delegation of funds to schools, which for primary and secondary schools is on the basis of a local formula, and on the spending of funds held centrally, most of which is used for making high needs provision. These spending decisions are most effective when there is a strong partnership between the local authority and the institutions providing education. The schools forum is one way in which partnership working can be strengthened, particularly with schools. However, local authorities should engage with all of those providing education in their area, including early years settings and post-16 institutions, as well as parents and young people, in fulfilling their statutory duties to keep the services and provision for children and young people with SEND under review, as required by the Children and Families Act 2014.

High needs funding: local authority allocations

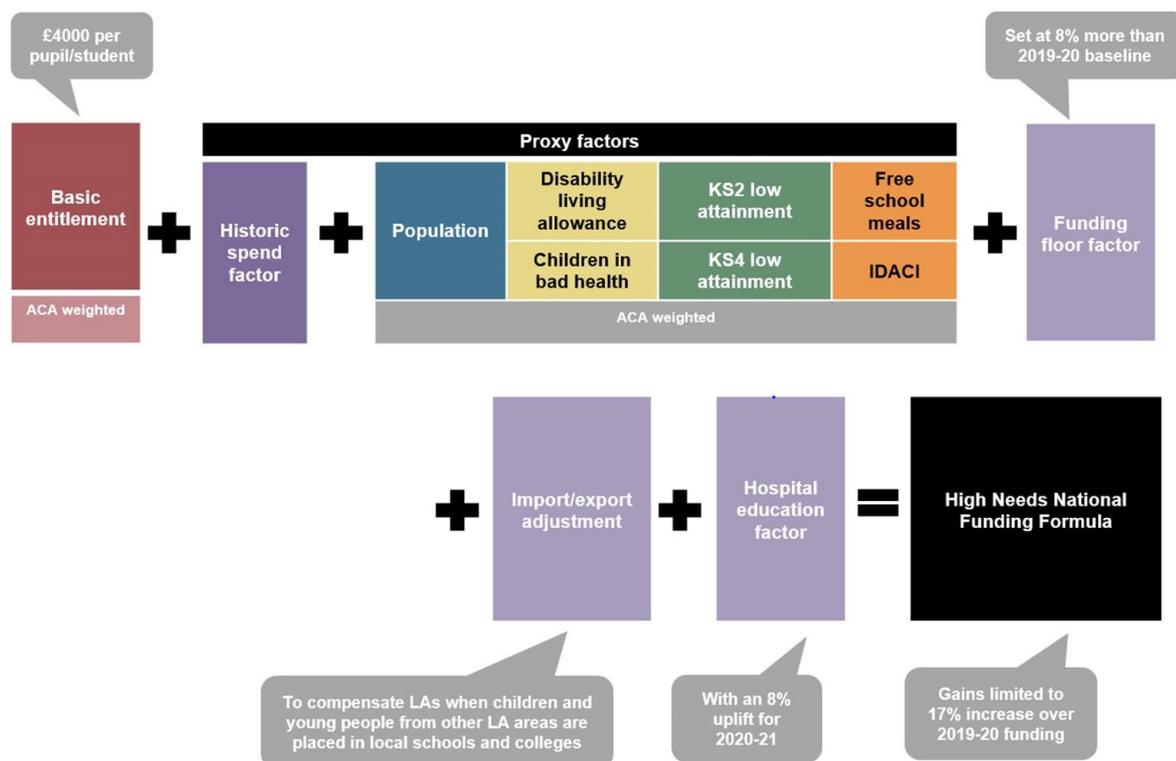
18. ESFA makes an allocation to local authorities for high needs as part of the DSG to support them in meeting their responsibilities for children and young people with SEND set by the Children and Families Act 2014, and for those who need alternative provision (including hospital education). High needs block allocations are calculated through the high needs national funding formula.

19. Local authorities decide how much to set aside in their high needs budget for place and top-up funding given to institutions, central high needs services (which may be devolved to schools or other institutions and funded through a service level agreement), and other aspects of provision related to SEND and AP as permitted by the School and Early Years Finance Regulations. Schedule 2 to the regulations sets out the categories of central spend permitted to local authorities.

High needs funding formula factors

20. There are 12 elements to the high needs national funding formula. These form the basis for local authority high needs block allocations. The following diagram shows the funding factors in the high needs national funding formula. Further information on the 2020 to 2021 high needs formula, including provisional allocations, was published in October 2019.

High needs national funding formula



21. The limit on gains under the formula is 17%, for example, local authorities will receive increases in funding up to 17% more than the funding they received in their 2019 to 2020 allocation.

22. Further adjustments outside the normal formula distribution and allocation arrangements may be necessary to reflect other changes, in particular for those local authorities with a special free school in their area, or pupils resident in their area attending a special free school in another local authority. Information on how adjustments for special free schools have been calculated is available in the 2020 to 2021 local authority funding: special free schools adjustments guide. Adjustments may also be made as a result of local changes, for example if a non-maintained special school becomes a special academy or a further education (FE) college merges with another college in a neighbouring local authority area, depending on the timing of the changes.

23. A brief description of each factor is given below.

Basic entitlement factor

24. The factor allocates funding on the basis of data on the pupil and student numbers in special schools and special post-16 institutions. The funding rate is £4,000 per pupil or student and is subject to an area cost adjustment.

Historic spend factor

25. This factor is based on the local authority baselines published in August 2017, with adjustments to avoid double-counting through other factors including basic entitlement. A weighting of 50% was then applied to give the final figure for the formula.

Other proxy factors

26. The remaining high needs funding, after deducting funding for the basic entitlement, hospital education and historic spend factors, is then available for the proxy factors listed below:

- population factor
- free school meals (FSM) factor
- income deprivation affecting children index (IDACI) factor
- bad health factor
- disability factor
- key stage 2 low attainment factor
- key stage 4 low attainment factor

27. Weightings are assigned to determine how much of the remaining amount is allocated through each of the proxy factors. The weightings are applied separately for SEN (90% of funding) and AP (10% of funding), then combined.

Funding floor factor

28. This ensures local authorities do not fall below a minimum level of funding. The factor is applied to the funding calculated through historic spend factor and proxy factors. There are two elements:

- a per head floor ensuring relevant elements of the funding increase on a per head basis from the 2019 to 2020 funding baseline by at least 8% in 2020 to 2021, based on the ONS estimated population of 2 to 18-year olds
- an absolute floor ensuring funding does not drop below the 2019 to 2020 baseline

Hospital education factor

29. The local authority allocations for 2020 to 2021 include a hospital education factor equivalent to the amount received in 2019 to 2020 plus an 8% uplift.

Import/export adjustment

30. The majority of the high needs national funding formula is designed to allocate funding to local authorities for the needs of the children and young people who live in the local authority's area, regardless of where they are educated. However, we recognise

that local authorities face higher costs if they attract more pupils and students with high needs who live outside the local authority area into their schools and colleges (counted as 'imports' in the formula calculation), for example because they are expected to pay for the costs of high needs places in schools and colleges in their area.

31. Conversely, authorities that 'export' pupils and students to other local authority places face lower costs. We have therefore included an import/export adjustment in the funding formula that reflects the movement of high needs pupils and students between local authorities, where they live in one authority and attend a school or college in another.

32. The calculation uses school census and ILR data and compares the number of 'imported' and 'exported' pupils for each local authority. Where the imports and exports balance, the cost to the local authority is neutral and no adjustment is made. Where there are more imports than exports, or vice versa, a positive or negative adjustment is made using a unit value of £6,000.

33. The pupils and students counted in the calculation of the adjustment are as follows:

- from the January school census (age 4 to 18)
 - pupils with top-up funding in mainstream schools and academies
 - pupils in special schools and academies
- pupils in non-maintained special schools
- from R06 ILR (age 16 to 18 and 19 to 24-year olds with EHC plans)
 - students in SPIs
 - students with top-up funding in FE institutions

34. The import/export adjustment does not use any data relating to pupils in AP as the data is not accurate enough for making the adjustments. Taking into account the development of policy on AP, we will explore more widely whether any consequential changes to the funding formula should be considered.

35. In relation to looked after children (LAC), the current financial arrangements are on the basis that the local authority responsible for securing the provision specified in an education, health and care (EHC) plan is the authority in whose area the young person is ordinarily resident, as is normally the case. Consequently, the import/export adjustment in the high needs national funding formula is based on school census or ILR data using the local authority area in which a pupil or student is resident.

36. We recognise this may differ from the local authority responsible for looked after children and for paying the costs associated with their EHC plan. If these funding arrangements do not adequately compensate authorities that are bearing the cost of educating such looked after children living in their area, those authorities still have

recourse to the provisions of the Inter-authority Recoupment (England) Regulations 2013.

37. For FE institutions and special schools, the institution-level data used for the import/export adjustments and associated adjustments referred to above should be broadly consistent with the numbers of places funded in that academic year. It should be noted that places for post-16 students with high needs may be funded through a local arrangement with the provider local authority, not necessarily as places in the institution's allocation.

38. Institutions must ensure that only those pupils and students with high needs are included on the relevant school census and ILR. Pupils and students with high needs are those who have additional support assessed by the local authority as costing more than £6,000 per annum and for whom the authority is paying top-up funding to the institution. It is also important that local authorities, in their discussions with institutions, are aware of the number of pupils and students with high needs that are included on the school census and ILR, and understand how that number affects a local authority's funding.

Import/export data 2019 to 2020

39. The 2019 to 2020 import/export adjustment data was published in June 2019 with the January 2019 School Census data and the February 2019 ILR data. An institution level breakdown was available to local authorities on document exchange. The following example shows how the 2019 to 2020 adjustments were calculated and how the 2020 to 2021 adjustments will compare.

Example

40. A local authority is 'importing' a total of 25 pupils in January/February 2018, and 'exporting' a total of 20 pupils in January/February 2018. Their net import/export adjustment for the baseline year (2018 to 2019) is +£30,000 ($+5 * £6,000$).

40.1. In January/February 2019, the local authority is 'importing' a total of 40 pupils, and 'exporting' a total of 25 pupils. Their net import/export adjustment for 2019 to 2020 is +£90,000 ($+15 * £6,000$).

40.2. Between the final position in 2018 and that in 2019 to 2020 their high needs NFF allocation has therefore increased by £60,000 ($£90,000 - £30,000$), not by £90,000.

40.3. If, in January/February 2020, the local authority is 'importing' a total of 35 pupils and 'exporting' a total of 35 pupils, their net import/export adjustment for 2020 to 2021 will be £0 ($0 * £6,000$).

High needs place deductions

41. The place numbers used for the high needs place deductions are a combination of published place numbers, and data from local authorities collected through the place change notification process. These place numbers must reflect the total number of places required to meet the needs of all local authorities, not just those of the provider local authority.

42. For some institutions, such as academies and FE institutions, place funding is included in local authorities' initial DSG allocation and then deducted by ESFA so that it can pay the funding direct. The academic year place funding rates are shown in the institution funding table, with further information in the section on institution types. The 2019 to 2020 and 2020 to 2021 academic year place amounts are prorated as follows to calculate DSG deductions for the 2020 to 2021 financial year, by place and institution type:

Pre-16 DSG deductions by institution type

Pre-16						
	AP		SEN unit or resourced provision		Special schools	
	19/20 A/Y (*5/12)	20/21 A/Y (*7/12)	19/20 A/Y (*5/12)	20/21 A/Y (*7/12)	19/20 A/Y (*5/12)	20/21 A/Y (*7/12)
Mainstream Academies and free schools	N/A	N/A	£2,500 or £4,167	£3,500 or £5,833	N/A	N/A
Special academies and free schools	£4,167	£5,833	N/A	N/A	£4,167	£5,833
AP academies	£4,167	£5,833	£4,167	£5,833	N/A	N/A

Post-16 DSG deductions by institution type

Post-16 (SEN places)						
	Schools		Post-school (16-18)		Post-schools (19-24 with EHC plans)	
	19/20 A/Y (*4/12)	20/21 A/Y (*8/12)	19/20 A/Y (*4/12)	20/21 A/Y (*8/12)	19/20 A/Y (*4/12)	20/21 A/Y (*8/12)
Mainstream Academies and free schools	£2,000	£4,000	N/A	N/A	N/A	N/A
Special academies and free schools	£3,333	£6,667	N/A	N/A	N/A	N/A
AP academies	£2,000	£4,000	N/A	N/A	N/A	N/A
16-19 academies and free schools	N/A	N/A	£2,000	£4,000	£2,000	£4,000
FE / Independent Learning Providers (ILPs)	N/A	N/A	£2,000	£4,000	£2,000	£4,000

43. The above rates are multiplied by the number of places to calculate the total deduction amount. The place numbers used for the calculation are a combination of published place numbers, and data from local authorities collected through the place change notification process.

High needs funding: institution allocations

44. Institutions receive high needs funding in different ways:

- core funding: the annual allocation an institution receives either directly from the provider local authority (for maintained schools and PRUs, based on the financial year), or from ESFA (for academies, free schools, colleges, independent learning providers (ILPs), non-maintained special schools and special post-16 institutions, based on the academic year)
- top-up funding: the funding required, over and above the core funding, to enable a pupil or student with high needs to participate in education and training.
- funding under a service level agreement: where a service relating to SEND or AP has been commissioned by a local authority and is delivered by an institution, the local authority can pay for that service from its high needs budget where permitted by the funding regulations

Core funding and top-up funding by institution

45. The following summarises how high needs provision is funded in different types of provider for both pre and post-16 pupils and students. Further information is available in the section on provider types.

Mainstream schools, mainstream academies and mainstream free schools:

- pre-16 core funding: included within the funding through the local schools funding formula
 - schools meet the first £6,000 of additional support costs from delegated funds within school budget share and academy grant, calculated under the local schools funding formula
- pre-16 top up funding (real time): Agreed per pupil top up paid by commissioning local authority
- post-16 core funding: element 1 (based on 16 to 19 national funding formula) plus element 2 (£6,000 per place) based on the number of places to be funded
- post-16 top up funding (real time): agreed per pupil top-up paid by commissioning local authority

SEN units and resourced provision in mainstream schools, academies and free schools:

- pre-16 core funding: a combination of per-pupil funding through the local schools funding formula, plus £6,000 per place for those occupied by pupils on roll, and £10,000 per place for the remainder of places to be funded

- pre-16 top up funding (real time): agreed per pupil top-up paid by commissioning local authority
- post-16 core funding: element 1 (based on 16 to 19 national funding formula) plus element 2 (£6,000 per place) based on number of places to be funded
- post-16 top up funding (real time): agreed per pupil top-up paid by commissioning local authority

Maintained special schools, special academies, special free schools, and non-maintained special schools (NMSS):

- pre-16 core funding: £10,000 per place based on number of places to be funded
- pre-16 top up funding (real time): agreed per pupil top-up paid by commissioning local authority
- post-16 core funding: £10,000 per place based on number of places to be funded
- post-16 top up funding (real time): agreed per pupil top-up paid by commissioning local authority

Maintained pupil referral units, AP academies and AP free schools

- pre-16 core funding: £10,000 per place based on number of places to be funded
- pre-16 top up funding (real time): agreed per pupil top-up paid by commissioning school or local authority
- post-16 core funding: element 1 (based on 16 to 19 national funding formula) plus element 2 (£6,000 per place) based on number of SEND places to be funded
 - they will not receive AP place funding for post-16 students because these institutions are, by definition, schools set up to educate children of compulsory school age
 - in the event that an AP institution does have post-16 high needs students with special educational needs, usually with an EHC plan, these places are funded on the same basis as post-16 students in mainstream schools
- post-16 top up funding (real time): agreed per pupil top-up paid by commissioning local authority

Nursery schools

- pre 16 core funding: per pupil funding through the early years funding formula
 - the place funding system doesn't operate in 0 to 5 year only settings
- pre 16 top up (real time): agreed per pupil funding paid by commissioning local authority for costs assessed by the authority and not met through the early years funding system

Independent schools (including independent AP)

- pre-16 core funding: place funding system doesn't operate in independent schools

- pre-16 top up funding (real time): agreed per pupil funding paid by commissioning local authority
- post-16 core funding: place funding system doesn't operate in independent schools
- post-16 top up funding (real time): agreed per pupil funding paid by commissioning local authority

FE institutions, special post 16 institutions (SPIs) and independent learning providers (ILPs)

- post-16 core funding: element 1 (based on 16 to 19 national funding formula) plus element 2 (£6,000 per place) based on number of places to be funded
- post-16 top up funding (real time): agreed per pupil top-up paid by commissioning local authority

High needs place funding

46. Place funding should broadly reflect both local authorities' recent commissioning activity and strategic planning to secure suitable SEND provision and AP, in line with their statutory responsibilities. In determining the number of funded places, local authorities should consider all high needs providers in their area and take account not only of their own commissioning decisions but also of the commissioning decisions of other local authorities. In the case of AP, local schools' commissioning activity and plans should also be considered.

47. Local authorities may, with the agreement of the relevant members of their schools forum, retain part of the place funding of maintained special schools and pupil referral units to fund specified central services relating to maintained schools only. Further information about place funding for alternative provision (PRUs, AP academies and AP free schools) can be found in annex 2, including information on the different funding arrangements for pre and post-16 pupils.

48. Place funding is allocated as an annual amount of core funding. Once place funding is allocated, it is not associated with or reserved for a specific local authority or individual pupil or student. It is for the institution to decide how best to apportion their total allocated core funding across the actual number of places commissioned by local authorities, taking into account the provision and support that may be specified in the individual pupils' or students' EHC plans.

49. Place funding is not withdrawn if an individual does not occupy a funded place. It provides institutions with a guaranteed budget for the year and gives them a degree of financial stability. A local authority may not seek to recover funding for places which it perceives as being unused from the previous or current academic year. Similarly, local authorities should not automatically be charged an extra £6,000 or £10,000 per head top-up funding for a pupil or student with high needs, if an institution has filled all funded places (irrespective of which local authority has filled them).

50. Dialogue between local authorities and institutions is important when preparing for the allocations of high needs place funding to institutions. Local authorities should consult with institutions in their area, and discuss both current numbers of places being taken up, which will be included on the school census and ILR returns, and the number of places required in future. Where an institution believes it is not being funded for the correct number of places it should raise this with the provider local authority. These discussions must take into account the total number of places required to meet the needs of all local authorities, not just those of the local authority in which the institution is located. This is particularly important for FE institutions and special schools as the import/export adjustment should ensure that funding in the local authority's DSG reflects those pupils and students with high needs resident in one local authority area that attend institutions in other areas.

51. Local authorities have local flexibility to change funded place numbers at maintained schools and PRUs, and these numbers should be included on each authority's section 251 budget return for 2020 to 2021. If a local authority maintained school or PRU converts to an academy, place numbers must be agreed between the local authority and school. To ensure that the institution is funded on the correct basis, the local authority should notify the department's project lead of the agreed places. This is done by completion of the departments 'notification of changes to funded high needs places' form. This form is supplied by the departments project lead and the completed form must be returned to the department before the school converts. If no notification is received place numbers, recorded in the 2019 to 2020 section 251, will be rolled forward. A form must be completed for all institutions where post 16 places are required. This is because post 16 place data is not set out within the section 251, and may even be included within the recorded pre 16 place numbers. In these cases, completion of the form will ensure clarity of the split between pre and post 16 requirements.

52. ESFA must be notified of changes using the ESFA's 'notification of changes to funded high needs places form' supplied by the project lead. A form must be supplied for all institutions where post 16 places are required because this information is not set out in the section 251 data. If no notification is received, 2019 to 2020 section 251 place numbers will be rolled forward upon conversion.

53. Where an institution is admitting students with high needs from a number of different local authorities, the provider local authority should first seek information from the institution on the number of places currently being commissioned from each local authority and how those numbers are expected to change in the following academic year. Significant changes may be confirmed with the commissioning local authorities concerned and they should proactively contact the relevant provider local authority in such circumstances. When doing so commissioning local authorities should provide clear and accurate information to the provider local authority in good time to enable collation of this information in advance of the place change notification process deadline. We are aware of particular issues that may arise when FE colleges in different areas merge into a single college and we expect that the above approach is adopted in these circumstances.

54. ESFA guidance: the high needs place change notification 2020 to 2021: technical note, published in October, explains the process for notifying ESFA of changes to 2020 to 2021 high needs place numbers at academies, free schools and post-16 institutions, and to hospital education provision. High needs place change notification outcomes providing information about funded place numbers for academic year 2020 to 2021 were published in January 2020. A two-week enquiry window followed, allowing local authorities and institutions to raise significant issues. AP free schools have received guidance on notifying ESFA of their requests for 2020 to 2021 high needs place numbers in November 2019.

55. 2020 to 2021 place funding allocations for non-maintained special schools and SPIs will be based on the latest available data.

56. In the event that the number of places commissioned change after the annual processes above have been followed, ESFA are unlikely to revise allocations to academies or post-16 institutions. We recognise that often the number of funded high needs places and actual pupils or students will vary. However, as explained earlier, place funding is not reserved for individuals and it is for institutions to apportion the total allocated place funding across the actual number of pupils and students with high needs. In most cases, the variance between place numbers and pupils or students is small with no, or marginal, impact on cost.

57. An institution should approach the provider local authority if the number of pupils or students, agreed as having high needs by the relevant local authority, exceeds the number of funded places to an extent that results in the institution incurring additional costs of special provision not met through the top-up funding amount normally paid. We expect the provider local authority to engage with the institution and agree how the costs of the additional special provision required are to be met, and these conversations should take place as early as possible in the academic year.

58. The provider local authority should not automatically be charged an additional £6,000 or £10,000 per pupil or student. The amount should reflect the actual costs of making additional special provision available, which may only be marginal, and an agreement between the provider local authority and the institution on how those costs are to be met. The import/export adjustment compensates the provider local authority for actual pupils or students living in other local authority areas who attend the institution, albeit in the subsequent financial year. This will avoid the position where the commissioning local authority effectively funds twice – both through increased top-up funding direct to the institution and through the £6,000 import/export adjustment in the national funding formula. These arrangements apply in particular to FE institutions and special schools that are experiencing year-on-year growth in the number of pupils and students with high needs that they admit.

Where pupil and student numbers exceed allocated places - an example

59. The following is an example of how the high needs funding arrangements should operate when an institution has more pupils or students with high needs than the number of places for which it has been funded. Although it is illustrated using a college located in a local authority area (the provider local authority) with several other local authorities also commissioning places, similar arrangements may also apply to other institutions, including special academies. The example illustrates how the place funding for institutions and consequent deductions from local authorities' high needs allocations and the import/export adjustment work together. This shows the flow of high needs funding

between local authorities and institutions when an institution has to make additional special provision for a number of pupils or students that exceeds the funded place number.

60. Following discussion with the college, and where there is a change from the previous academic year, the provider local authority submits the total high needs place numbers to the ESFA in November, in advance of the start of the academic year, through the place change notification process. In this example the local authority and college have agreed on 100 places for the 2020 to 2021 academic year and this includes places to be filled by high needs students from all local authorities. The number of places to be funded is published in January by ESFA and during the subsequent enquiry window the college and local authorities check the number and are content it reflects the discussions.

61. ESFA issues an allocation to the college in March in advance of the academic year reflecting the 100 place numbers, providing £600,000 high needs funding, (100 places x £6,000 element 2 funding). The provider local authority's DSG will also be updated and 100 places deducted from their high needs allocation at £6,000 per place, pro-rata for the academic year, based on August to March (100 places x £4,000).

62. The commissioning local authority (i.e. the authority in which the student is ordinarily resident) agrees top up funding with the college directly. The provider local authority (if not commissioning the place) and ESFA do not need to be involved in these conversations. We would encourage neighbouring local authorities to collaborate on the special provision required for their students, and on associated commissioning arrangements and top-up funding levels.

63. In this example, in the lead up to the academic year, several local authorities have commissioned further high needs places in excess of the 100 places that the college has received (element 2) funding for. The college therefore has 120 high needs students at the start of the academic year, and it doesn't matter which local authorities fill these places because place numbers are not reserved for individual pupils or specific local authorities. This has resulted in additional costs for the special provision required by these 20 students that the college cannot meet through its existing funding streams, which include the £600,000 high needs place funding in their allocation and standard top-up funding rates in respect of the 120 high needs students.

64. The college therefore discusses with the provider local authority the scale of the additional special provision that it is being expected to make available and the costs involved. It is agreed that the provider local authority will fund a further £50,000 through a local agreement to contribute to the additional costs incurred by the college. This is to help meet the additional costs of making the provision required by the additional students, on top of the normal funding streams. These costs could be marginal, and we would not necessarily expect the provider local authority to have to pay an extra £6,000 for every extra student placed over and above the colleges 100 places.

65. The provider local authority should be compensated for the costs of the high needs places filled by students resident in other local authorities, including the additional 20 students, through the import/export adjustment in the 2021 to 2022 financial year. In this example, 50 students live in other local authorities. This is recorded on the college's ILR and +£300k (50*£6k) will therefore contribute to the provider local authority's net import/export adjustment in their DSG.

66. It is important to note that this example is provided for a college and some details may vary depending on the institution or place type.

Top-up funding

67. Top-up funding is the funding required, over and above the core funding an institution receives, to enable a pupil or student with high needs to participate in education and learning. This is paid by the commissioning local authority and should reflect the costs of additional support to meet the individual pupil or student's needs. Top-up funding can also reflect costs that relate to the facilities required to support a pupil's or student's education and training needs (either for individuals or on offer to all) and can take into account expected place occupancy levels and other factors.

68. Although many of the pupils and students receiving high needs funding will have EHC plans, local authorities have the flexibility to provide high needs funding outside the statutory assessment process for all children and young people with high needs up to the age of 19.

Commissioning places requiring top-up funding

69. Local authorities bear the ultimate responsibility for decisions on top-up funding, as they are accountable for spending from their high needs budgets. In all instances, pupils or students with an EHC plan must have their placement commissioned by a local authority and an agreement should be in place between the local authority and the institution that confirms the amount of top-up funding to be paid (as set out below). Even where provision is specified in an EHC plan, there is no statutory requirement that a local authority has to pay top-up funding at a particular rate requested by a school or institution.

70. Pupils and students should only be counted as having high needs for funding purposes (and be recorded on the school census or ILR as a pupil or student with high needs) if the local authority has agreed top-up funding for that pupil/student. This would apply even where an institution may have assessed a pupil or student as requiring additional support, or where a pupil or student has been offered a place by that institution. In such circumstances the school or college should use its best endeavours to make the special provision for the pupil or student, seeking advice from the local authority, if necessary, as to what additional support the pupil's EHC needs or other assessment may have indicated was appropriate.

71. So that a pupil's or student's placement is not disrupted, it is important that the local authority makes an assessment at the earliest opportunity, ideally before the pupil or student has been admitted to the institution. Where a pupil or student with an EHC plan is due to move between educational phases, the local authority must review and amend the EHC plan in the spring of the preceding academic year, as set out in the timetable above. In no circumstances should an admission to, or the continuation of a placement at an institution be conditional on, or delayed by receipt or agreement of top-up funding for the pupil or student.

72. Local authorities' expenditure from the DSG is subject to conditions of grant set by the department, which govern the way high needs funding is used. For example:

- local authorities must treat those placed in maintained provision, in academies and free schools, in the further education sector, and in non-maintained and independent provision on a fair and equivalent basis when making arrangements for funding young people with high needs.
- local authorities must make payments of top-up funding to institutions in a timely fashion and on a basis agreed with the institution; payments must be monthly unless otherwise agreed (such as termly in advance)
- institutions should contact ESFA where there are problems reaching agreement or receiving timely payments
- ESFA will examine cases and consider remedial action where there is clear evidence that a local authority is not meeting the required conditions of grant

73. The department's position is that the commissioning by local authorities of special educational needs and alternative provision placements, funded from the high needs block of the DSG, is not regarded as a public service contract for the purposes of the Public Contracts Regulations 2015.

74. The Public Contracts Regulations 2015 are not intended to cover all expenditure of public funding, reflecting the intention of the EU Directive on public procurement. The public procurement rules only apply to contracts for the provision of public works, services or goods made for "pecuniary interest" between an "economic operator" and a contracting authority. Other forms of public funding, such as funding provided through grants, usually fall out of scope. Case-law from the European Court of Justice has established that public education organised within a national education system does not constitute economic activity, even in cases where tuition fees may be required to support placements.

75. When a local authority fulfils its statutory duties to make provision specified in an EHC plan or to put in place alternative provision for children of compulsory school age, funded from their high needs budget, it will be delivering public education organised within a national education system. Any disbursement of high needs funding between the local authority and an institution in fulfilment of such duties will therefore not constitute "economic activity", and any agreement between local authority and institution will not be regarded as a public service contract for the purposes of the Public Contracts Regulations 2015.

76. We recognise that the wide range of different placement processes and documentation employed by local authorities, some intended to comply with the Public Contract Regulations 2015, is not helpful to institutions that attract placements from a number of local authorities. We will engage with local authorities, institutions and their representative organisations to encourage shared arrangements for commissioning and quality management of institutions which operate on a regional or national basis and to

share existing good practice. This will include considering standard approaches to calculating costs and the development of standard terms and conditions, designed to supplement EHC plans.

Agreeing how top-up funding should be allocated

77. As part of their discussions on how high needs funding is used, local authorities should work with institutions that have pupils or students with high needs to ensure there are clear processes for determining and allocating top-up funding. This should include agreeing what additional needs mainstream schools and colleges should meet from their own resources (taking account of any additional support or funding provided centrally) and where top-up funding might be provided. This information should be published as part of the local offer of SEND services and provision.

78. Local authorities have statutory responsibilities to keep the special educational provision in their area under review, working with parents, young people and institutions, as set out in chapter 4 of the SEND Code of Practice. A wide range of educational institutions are required to co-operate with local authorities in such reviews, including maintained schools, academies, FE and sixth form colleges, independent and non-maintained special schools, special post-16 institutions and any other providers of special educational provision, including relevant early education providers.

79. Children and young people with high needs often receive provision outside the local authority where they are resident, for example at a special school or FE college. We therefore encourage neighbouring local authorities to work together when reviewing their provision and considering arrangements for top-up funding.

80. Many local authorities have systems which indicate the range of top-up funding which might be provided for children and young people with a particular complexity of need (sometimes referred to as 'banded' funding systems). This can be helpful in providing clear and transparent funding arrangements for many types of need that may be met in a range of different institutions. Where a local authority makes a large number of placements at an institution or range of institutions, a system for the local authority and institutions to agree levels of top-up funding in advance can be a very efficient way of allocating this funding. However, the final allocation of funding must be sufficient to secure the agreed provision specified in any EHC plan.

81. As explained earlier, place funding should not be withdrawn for a place perceived as unused. Similarly, an additional £6,000 or £10,000 per head should not automatically be charged if an institution has filled all funded places. When agreeing rates of top-up funding, a local authority and an institution may wish to reflect economies and diseconomies of scale based on occupancy of places. For example, an institution may have 30 high needs places for which it receives a total budget of £300,000 (30 x £10,000):

- in the event that the institution fills 25 places it may agree with the provider local authority to charge a lower rate of top-up funding, to reflect the 'surplus' funding arising from its five unfilled places, which the provider local authority has already funded. The nature of pre-16 AP and SEND provision in some institutions means that there may be empty places at some points in the year, such as where diagnosis after the beginning of the academic year leads to later identification and placement

82. Other factors that could impact on the way local authorities determine the top-up funding for individual pupils and students are:

- the way institutions set their budgets and break down their costs and overheads
- overheads affecting certain types of independent institution which are otherwise funded for maintained schools and academies, such as VAT costs in NMSSs and the costs of buildings for those institutions not able to access capital funding
- the extent to which local authorities and institutions agree on standardised rates, local banding arrangements and streamlined administration to reduce the need for detailed negotiation of different top-up funding amounts for each pupil or student
 - we would support approaches that both create certainty for institutions on the level of funding they can expect to receive for the provision they make, and are sufficiently responsive to changes in the number and needs of the pupils and students being placed in the provision

83. We do not expect top-up funding to contribute to or subsidise:

- overheads attributable to other budgets within the institution, or that relate to costs that the institution would have to meet even if it had no pupils or students with high needs (for example, the salary of the SENCO required by all mainstream schools)
- the costs of legal action against local authority decisions on assessment, provision and top-up funding, including support for parents seeking SEN tribunal judgements on such local authority decisions
- the cost of educational and other assessments (for example, by educational psychologists) unless the local authority agrees in advance to pay for or contribute to these costs because they are required for its own assessment or review purposes

84. Institutions should be transparent about their costs, and prepared to explain how the overall school and college finances are working to ensure their continuing financial viability and their ability to sustain appropriate levels of support for children and young people with SEN. Institutions may need to adapt their approach to making special provision, focusing on the needs of the child or young person. For example, it should not be assumed that an EHC needs assessment and plan will result in the provision of a fulltime teaching assistant – this level of help is often not needed by the child or young person and can at times be counter-productive to their development. Colleges may need

to reorganise their study programmes for young people with SEN and find different ways of supporting them over the week.

85. Further information about how top-up funding works for PRUs, AP academies and AP free schools is set out in annex 2.

Local authority high needs services and support

86. While the majority of a local authority's high needs budget is spent on place and top-up funding for institutions, local authorities can also use high needs funding to provide additional or targeted support for children and young people with SEND, as permitted under schedule 2 to the School and Early Years Finance Regulations. This can take the form of additional funding to institutions, which may be paid on the basis of a service level agreement, or access to specialist services or expertise commissioned by the local authority.

87. As set out in below, such support can play an important role in enabling mainstream schools and colleges to meet a wider range of special educational needs, and supports the presumption in law that children and young people should be educated in mainstream provision, unless their special educational needs require more specialist provision.

88. The amounts that the local authority plans to spend on such services should be included on the authority's section 251 budget statement, as in previous years. Schools forums are expected to discuss the details and effectiveness of these services.

Additional funding for mainstream schools

89. One of the categories of high needs spending referred to above is targeted funding to mainstream schools. Local authorities can provide additional funding outside the main funding formula for mainstream schools and academies on a consistent and fair basis where the number of their pupils with SEND and/or high needs cannot be reflected adequately in the funding they receive through the local funding formula. They should define the circumstances in which additional funding will be provided from their high needs budget.

90. Additional funding may be provided where there are a disproportionate number of pupils with a particular type of SEND. For example, a primary school may have developed a reputation for meeting the needs of high achieving pupils with autistic spectrum disorder, or pupils with physical disabilities, and it's not possible to target additional funding to the school through factors in the school funding formula.

91. Local authorities should have a formula or other method, based on their experience of distributing additional funding to their schools and academies. This should be agreed with schools and described on the authority proforma tool (APT). In all cases the distribution methodology should be simple and transparent, and devised so that additional funds are targeted only to a minority of schools which have particular difficulties because of their disproportionate number of pupils with SEND or high needs or their characteristics.

Specialist support services

92. If mainstream provision is to meet a wide range of additional needs, it is important that schools, colleges and settings have access to high-quality specialist support (for example, to help with the needs of children and young people with autism, speech and language needs, social, emotional and mental health needs, sensory impairment or challenging behaviour). This typically involves specialist teachers with expertise in supporting pupils with complex needs who are available to advise, train and support other teachers and SEN co-ordinators in mainstream schools and colleges, and who can provide other support, for example through networking and targeted training.

93. It is important that such support is available to mainstream schools (maintained schools as well as academies and free schools), further education colleges, sixth form colleges and 16-19 academies, since they are all statutorily required to identify the special educational needs of their children and young people and to use their best endeavours to make sure that a child or young person who has SEN gets the support they need.

94. Local authorities and mainstream schools and colleges should discuss how such specialist support should be delivered when considering how to spend the high needs funding available to them. Many local authorities employ specialist teachers, funded directly from their high needs budget. Others give special schools additional funding to provide specialist support to other schools. Such arrangements are frequently accompanied by a service level agreement confirming what will be delivered in return for the additional funding.

95. Specialist support for pupils at risk of exclusion may be commissioned by the local authority or by schools (using funding devolved by the local authority). Further information on centrally commissioned AP services can be found in annex 2.

High needs funding arrangements: institutions

Early years providers

96. Children aged 0 to 5 with more complex needs and those in receipt of an EHC plan are eligible to receive funding via the high needs block of the DSG.

97. Local authorities can meet the costs of under 5s with high needs in different ways from their high needs budget. These may include SEN support provided directly as a central service for young children with high needs and early years providers. Place funding may also be used for early years provision, for example at special schools, supplemented by top-up funding for individual children.

98. Additionally, local authorities are required to pass funding on to all early years providers delivering the free entitlements for children aged between 2 and 4, through the early years block of the DSG. The early years operational guidance includes more information on how early years block funding is allocated and should be passed on to providers.

99. As set out in the early years operational guidance, there are additional early years funding streams to support children aged 3 and 4 with special educational needs and disabilities to access their free entitlements:

- The settings of 3 and 4 year olds eligible for the disability access fund (DAF) (those in receipt of child disability living allowance and receiving free early education) will be entitled to receive a one-off payment of £615 per year.
- All local authorities are required to establish an inclusion fund in their local funding systems for 3 and 4 year olds with SEN taking up the free entitlement, regardless of the number of hours taken
 - this fund supports local authorities to work with providers to address the needs of individual children with low level or emerging SEN
 - this structure will also support local authorities to undertake their responsibilities to strategically commission SEN services as required under the Children and Families Act 2014
 - local authorities can establish their SEN inclusion funds using funding from either one or both of their early years block and high needs block of the DSG

Mainstream schools, academies and free schools

100. Maintained mainstream schools will receive notification of their core funding allocations of pre 16 funding by end of February, and mainstream academies and free schools by the end of March before that academic year begins. The per pupil funding for mainstream schools includes funding for pupils with SEND, whose additional support

costs are lower than £6,000. Schools and academies should have sufficient funding in their delegated budget to enable them to support pupils' SEND where required up to the mandatory cost threshold of £6,000 per pupil per annum.

101. For pupils aged 5 to 15 years in mainstream schools a notional SEN amount will be shown in the school's budget, this is an indicative amount that schools may set aside for pupils with SEND. Where there are a disproportionate number of pupils with special educational needs, additional funding maybe provided outside the main funding formula as explained in the additional funding for mainstream schools section. High needs place funding is only available to those schools with SEN units or resource provision.

102. Where individual pupils require additional support that costs more than £6,000, the excess should be met by top-up funding associated with the individual pupil. Top-up funding rates are for local authorities to determine, by agreement with schools and academies. Further information is provided in the section on top-up funding.

Sixth forms

103. Mainstream sixth forms are funded for their core funding on the basis of an amount per student based on the post-16 national funding formula (element 1), and £6,000 per high needs place (element 2). Funding for pupils whose additional support costs are lower than £6,000 is provided within the disadvantage funding element of post-16 national funding formula. Local authorities should assume a national average amount of £5,200 for element 1, comprising the £4,188 base rate and additional funding allocated through the post-16 funding formula (such as for disadvantage).

104. High needs place funding (element 2) is available to schools for students with SEND requiring additional costs exceeding £6,000. Schools should have engaged with their local authority to agree place numbers. Local authorities have flexibility to agree with schools, academies and free schools alternative ways of calculating this element of high needs funding. ESFA do not require information on changes to places funded in maintained schools as local authorities fund these institutions directly and have local flexibility to change the number of places as well as the method of calculating the allocation. Local authorities should however notify ESFA of changes to place numbers for academies and free schools, to ensure that they are funded on the correct basis.

105. As for pre-16 pupils explained at above, where individual pupils require additional support that costs more than £6,000, the excess should be met by top-up funding associated with the individual pupil.

Special units and resourced provision

106. Mainstream schools may be funded for pre-16 high needs places if they have special units and/or resourced provision. Depending on the range and type of services on offer, it's also possible for such provision to be a centrally funded service commissioned

by the local authority, normally under a service level agreement with the school or academy. Where there are changes to specialist provision, such as new special units or resourced provision, at academies and free schools, this must first be approved through the significant change process.

107. Resourced provision and SEN units vary widely, reflecting the local approach to inclusion. In resourced provision pupils tend to spend most of their time in mainstream classes only attending the facilities for individual support, to learn a specific skill (for example braille for visually impaired pupils), to receive medical or therapeutic support (for physically disabled pupils) or to access specialist equipment. The facilities can be in a suite or dispersed throughout the school. Pupils in an SEN unit tend to spend the majority of their time there, only attending mainstream classes for a few lessons, such as PE, assembly or for lunch

108. Pre-16 places at a special unit and resourced provision that are occupied by pupils recorded on the school census as sole or dual (main) at a special unit or resourced provision are funded at £6,000 per place. Pupils in these places will also attract funding through the mainstream school formula.

109. Other places are funded at £10,000. This may apply where:

- the place is or will be occupied by a pupil registered on the roll of another school
- a place isn't occupied at the time of the school census count, but is likely to be filled, and requires funding
- spare capacity is required for another reason

110. ESFA confirm the number of funded high needs places in mainstream academies and free schools as a result of the annual place change notification process. The total number of places to be funded in maintained schools is decided at a local level by the local authority that maintains the school, taking full account of places that may be commissioned by other local authorities.

111. Information collected via the authority proforma tool (APT) is used to determine the place funding rate for SEN units and resourced provision. For mainstream academies and free schools ESFA reconciles place occupancy data provided in the APT with the number of places confirmed as part of the place change notification process to determine the rate of place funding for mainstream academies and free schools in line with the following principles:

- outcomes from the place change notification process informed ESFA of the number of high needs places to fund
- the APT records the number of places occupied by pupils on the roll of the school or academy as at October (that is, recorded as sole or dual (main) registered when the school census is completed)

- place funding has not therefore been allocated for pre-16 place numbers recorded in the APT that exceed the number of pre-16 places confirmed as part of the place change notification process, as the latter relates to the number of places to be funded
- the number of occupied places recorded in the APT are funded at £6,000 per place
- where the number of pre-16 places confirmed in the place change notification process is greater than the number of occupied places provided via the APT, the difference is the number of places that are funded at £10,000 per place

Maintained special schools, special academies and special free schools

112. Pre-16 and post-16 high needs places at maintained special schools, special academies and special free schools are funded at £10,000 per place. Following publication of the place change notification outcomes there is a two-week enquiry window for local authorities and institutions to raise significant issues. Institutions receive allocations from ESFA by the end of March in advance of the academic year; maintained special schools are notified of their allocations (that is, their budget shares) by their local authority by the end of February.

113. A special schools protection will continue to apply to maintained special schools and special academies (including special free schools) in 2020 to 2021. The level of the minimum funding guarantee is increasing from minus 1.5% to 0%. The calculation is based on the assumption that the number and type of places remains the same between 2019 to 2020 and 2020 to 2021. It also assumes that all pupils in the school are placed by the provider authority (i.e. where the school is located) and that all top-up funding rates received by the school are those set by that authority. See annex 1 for further information on the protection, including a worked example.

Non-maintained special schools (NMSSs)

114. All places in NMSSs (pre- and post-16) are funded at £10,000 per year. We base non-maintained special school (NMSS) funding allocations on the pupil number data from the latest October school census, uplifted by the difference between the previous year's October and January census pupil number data. Any negative movement is capped at zero to ensure that no school is funded on numbers less than those recorded in their latest October census.

Independent schools

115. Independent schools, including independent special schools and independent AP sit outside the high needs place funding system. Where a local authority has

commissioned a place in an independent school, the local authority remains responsible for all the funding for that child or young person with SEND (that is, the local authority must provide the equivalent of both place and top-up funding from their high needs budget). The total expenditure on these placements should be included in the relevant high needs top-up funding line of each local authority's section 251 returns.

116. More information about how local authorities should discharge their responsibilities for children and young people with SEND in independent schools is set out in the SEND code of practice, in particular paragraphs 9.131 to 9.136.

PRUs, AP academies and AP free schools

117. We encourage schools and local authorities to explore the most effective arrangements for AP commissioning and funding in their area. For instance, there is flexibility for local authorities to devolve some decision making and funding for AP to schools, and there is evidence to show that this can be effective in promoting mainstream inclusion and accountability. Local authorities should provide information locally and consult with the schools forum about such arrangements. It should be noted that post-16 students in PRUs, AP academies and AP free schools are not funded in the same way as pre-16 students. Further information on funding arrangements for AP is available at annex 2.

Further education institutions

118. Further education institutions, including colleges and independent learning providers, receive core funding on the basis of an amount per student calculated using the post-16 national funding formula (element 1) and £6,000 per high needs place (element 2). Top-up funding for students with high needs (element 3) is paid directly by the local authority commissioning the place.

119. Element 1 student numbers are allocated directly by the ESFA to colleges for students aged 16 to 19 and those aged 19 to 25 with EHC plans. The number of students and amount of funding paid has no impact on local authorities' high needs budgets. Funding is provided within the disadvantage funding element of the mainstream 16 to 19 funding allocation for students with SEND, but whose additional support costs are lower than £6,000 and who therefore do not count as students with high needs.

120. For 2020 to 2021 local authorities should assume a national average amount of £5,200 for element 1, comprising the £4,188 base rate and additional funding allocated through the post-16 funding formula (such as for disadvantage), in respect of all post-16 high needs students.

121. The number of high needs places (element 2) that determines the high needs funding of £6,000 per place is based on the numbers of places funded for the 2019 to

2020 academic year, subject to any changes to those numbers as a result of the place change notification process. As indicated above, it is essential that FE institutions discuss with their provider local authority (that is, the one in which the main college or provider HQ is located) how many places should be funded as set out in the high needs place funding section above..

122. Further information about how place funding works, including where students exceed place numbers, can be found in the high needs place funding section above. It is also open to FE institutions to agree with their provider local authority an alternative method of calculating this element of funding (that is, a calculation that is not necessarily a number of high needs places times £6,000), subject to the requirements outlined in the high needs place funding - flexibility to allocate differently section.

123. There are a number of situations where a 14 to 16 year old may be studying in a college:

- students who achieved a level 2 qualification early and are choosing to enrol on a full level 3 course, and home educated students are counted as 16-19 year olds and funded alongside 16 to 19 year olds via the 16 to 19 funding formula for element 1 and £6,000 per place for element 2
- students enrolled in a school or academy but studying part time in college do not get funded as 16 to 19 year olds, the school or academy will receive funding in respect of these students via the pre-16 process applicable to that institution
- some colleges are eligible to be directly funded by ESFA for 14 to 16 year olds
 - these students should be recorded in the ILR accordingly and will be funded for element 1 via the 16 to 19 formula using a separate process
 - for element 2 these students are counted as 16 to 19 year olds and funded at £6,000 per place using the same process as for 16 to 19 year olds
 - further details for FE institutions on funding for directly recruited 14-16 year olds in colleges can be found in the Enrolment of 14 to 16 year olds in FE guidance

Special post-16 institutions (SPIs)

124. All SPIs in their second year onwards of direct ESFA funding are allocated place funding (element 1 and element 2) on the basis on their latest R06 ILR return.

125. To be eligible to receive high needs place funding from ESFA for the first time, SPIs must successfully complete the High needs funding: due diligence process for special post 16 providers. Such SPIs must also be notified to ESFA through the annual place change notification process. Their allocations are determined by the numbers returned by the local authority in which they are located.

Hospital education

126. Hospital education is defined as education provided at a community special school or foundation special school established in a hospital, or under any arrangements made by the local authority under section 19 of the Education Act 1996 (exceptional provision of education), where the child is being provided with such education by reason of a decision made by a medical practitioner.

127. Although we allocate funding to local authorities for hospital education without reference to the age of the young people receiving the education, local authorities' duties differ for young people aged 16 and over. This may affect their decisions on funding education for young people in this age group, such as those in independent hospital schools.

128. We are continuing to consult with local authorities, hospital schools and other interested parties on options for the funding of hospital education. It remains our intention to introduce a formulaic hospital education factor in the high needs national funding formula in future years, that takes into account both local authority spending data and NHS data, and therefore better responds to the number of patients needing education.

129. As in previous years, hospital education can be funded by local authorities either on the basis of an amount per place, or as a centrally funded local authority service. An example of the latter is where the authority employs teachers directly to work in a hospital or offer home tuition to pupils who are confined to their home because a medical practitioner has decided that is where they should be. Some local authorities commission such services through hospital schools or PRUs. In all cases local authorities should ensure that there is clarity on how hospital education is provided and funded locally and, for such provision in maintained institutions or central services, should report their planned and actual expenditure in the relevant tables of the section 251 budget and outturn statements.

130. Funded hospital education places can be found in maintained special schools (usually a particular type of special school known as a hospital school), maintained PRUs (sometimes known as medical PRUs), special and AP academies and free schools. Often these institutions will have a combination of hospital education places and other high needs (AP and SEND) places.

131. The regulations require that hospital education places in maintained schools and PRUs are funded at least at the same level per place as in the previous funding year. This requirement is also reflected in the funding arrangements for hospital education places in academies. DSG conditions of grant require local authorities to treat academies the same as maintained schools in their funding arrangements. These requirements will remain in place and are incorporated in the regulations and conditions of grant for 2020 to 2021.

132. Local authorities are reminded that the high needs national funding formula provides local authorities with an 8% increase in hospital education funding, from the 2019 to 2020 allocations of hospital education funding. Local authorities and their hospital schools, and other providers of hospital education, will wish to consider how much of this increase is passed on to the relevant schools and other institutions. If a local authority intends to pass on an increase to an academy funded for hospital education places, this should have been notified to ESFA via the 2020 to 2021 place change notification process. [Hospital education funding: guidance](#) explains the process for those Local authorities wishing to apply for additional funding due to new hospital education provision.

133. Medium secure adolescent psychiatric forensic units, which cater mainly for young people aged 16 and over, are funded in 2020 to 2021 using the same hospital education funding methodology of an amount per place no less than their funding per place in 2019 to 2020. Such education provision exists in a very small number of units, some of which are in maintained schools and academies, where the funding comes from the local authority and ESFA respectively, and others are operated by the local authority in whose area the institution is situated, or by charitable organisations and mental health trusts funded directly by ESFA.

134. Local authorities' duties may require them to commission hospital education from other independent providers, not in receipt of funding directly from ESFA.

135. In these circumstances, local authorities would be expected to pay the costs of this education from their high needs budgets. The law may not require local authorities to commission a particular education provider in order to discharge their duties, though decisions about education provision should not unnecessarily disrupt a child or young person's education or treatment.

136. Independent hospital education provision may be funded either as a single service by the local authority in whose area the provision is located, or on the basis of payments for individuals from those authorities in whose area the child or young person normally resides. In both cases the provider should confirm with the relevant local authority that they are content to commission and fund the education provision.

137. If funding is provided as payments for individual children and young people, the provider should receive such confirmation from the local authority, if possible in writing, before providing education to the child or young person, and certainly before requesting any funding.

High needs funding: post-16 special circumstances

High needs place funding: flexibility to allocate differently

138. Local authorities are reminded that funding for post-16 places in maintained schools (including maintained special schools) and PRUs is included and will remain in the DSG paid to local authorities, rather than being deducted from local authorities' DSG allocations and paid as sixth form grant. Local authorities have flexibility to make changes to maintained school and PRU place numbers. Post-16 students in PRUs (and AP academies and AP free schools) are not funded in the same way as pre-16 students. See Annex 2: alternative provision for more information.

139. Secondary maintained school and academy sixth forms, and all FE institutions are funded at £6,000 per place for one element (sometimes referred to as element 2) of their high needs funding allocation. As indicated above, this element of funding for maintained secondary schools and PRUs remains in local authorities' DSG high needs allocations. In the case of academies and FE institutions, this funding is deducted from the initial allocations of high needs funding to authorities by ESFA, and paid directly to the institutions, on the basis of the published data on place numbers and any changes notified by local authorities.

140. We are continuing the flexibility introduced for the 2019 to 2020 academic year, whereby a local authority can reach agreement with a mainstream maintained school or academy with a sixth form, a PRU or AP academy with a sixth form, a sixth form or FE college or an independent learning provider, that this element of the institution's funding can be calculated and paid in a different way directly by the authority, subject to the following requirements:

- there must be agreement on the alternative funding approach between the local authority and post-16 institution(s) involved, and this agreement should have been reached by autumn 2019
- the alternative arrangement must ensure a continuation of the £6,000 cost threshold for top-up funding, to maintain consistency in the high needs funding system
 - in other words, the funding methodology should continue to provide institutions with funds to meet the additional costs of supporting students with special educational needs up to £6,000 per annum, with top-up funding meeting the costs in excess of that threshold
 - local authorities should be aware that the import/export adjustment will continue to operate as explained above whatever alternative methodology is used
- the institutions involved must continue to provide information about students with high needs through the school census and ILR according to the current definition, which means that such students must have been assessed by the local authority

as having high needs, and the institution must be receiving top-up funding for their support costs in excess of £6,000

- this school census and ILR information provides the data that allows the import/export adjustment to operate fairly for local authorities

141. The local authority can make such alternative funding arrangements by agreement with its maintained secondary schools and PRUs without any formal notification to the ESFA.

142. Where an alternative funding methodology is agreed with an academy or FE institution, the authority should notify ESFA through the place change notification process that the place number is to be reduced. The place number would be zero if the local authority has agreed with the institution that the alternative methodology covers the equivalent of all the institution's place funding, including those places filled by students placed by other authorities.

143. The place number would be larger than zero if the institution receives funding for places to be occupied by students from other local authorities. In all cases, the deduction from the local authority's high needs allocation would reflect the reduced place number, because the authority has agreed the change with the institutions involved and will pay the funding to the institution concerned directly.

144. As indicated above, it is important for local authorities to note that no changes will be made to the import/export adjustment in the national funding formula, because the provider local authority, in whose area the institution is based, will still be expected to meet the costs of all the places in the institution. Including those to be occupied by students for whom other local authorities are paying the top-up funding.

145. This flexibility encourages local authorities and institutions to work together in making special provision for their students. Examples of alternative approaches could be:

- an agreement to fund a college directly a lump sum per year over 3 years, to provide certainty to the local authority and college on the level of provision and funding that will be made, subject to specified tolerances relating to the actual number of students with high needs receiving support
- an agreement that a school sixth form will be funded for its students with SEND on the basis of similar proxy measures as are in the local pre-16 funding formula

146. We will consider the need to collect further information from local authorities about any alternative funding calculations they make.

Post-16 study programmes

147. The majority of young people with high needs attending a school, college or SPI will be subject to an EHC plan. Local authorities must use the evidence from the EHC

plan to make consistent, effective and robust assessments of the support the young person will need to move towards a positive outcome.

148. Local authorities and institutions should work together to agree a suitable study programme for a young person, which must be tailored to their individual aspirations and support needs.

149. A full-time study programme has a minimum duration of 540 hours and there is no set maximum. Local authorities or colleges should not set an arbitrary maximum number of hours for a study programme, but instead should provide the number of hours required by the student to complete the programme. A funding requirement for all programmes is that they meet the condition of funding for maths and English.

150. A supported internship is one type of full-time study programme specifically aimed at young people aged 16 to 25 who have an EHC plan, who want to move into employment and need extra support to do so. Students on supported internships, although they have an EHC plan, are not necessarily students with high needs requiring additional support costing more than £6,000.

Part-time or part year students: post-16

151. We also consider young people to be high needs students when they are part time or part year and their additional support funding would total more than £6,000 if provided over the full academic year as agreed with the local authority in which the student is resident. See guidance regarding the funding rates and formula used in the funding arrangements for 16 to 19 year olds for more information.

152. Where an institution has enrolled, or is considering enrolling, a high needs student who will attend on a part time or part year basis, they should hold discussions with the relevant local authority as commissioners of high needs provision. The normal funding approach should then apply in line with the principles outlined in this guide. In all cases the institution will need to agree with the local authority an appropriate amount of top-up funding which the local authority will fund from its high needs budget.

Students aged 19 to 25 with an education health and care plan (EHCP)

153. Students aged 19 to 25 with EHCP who are continuing in education may have a range of options, including attending FE institutions, Independent Learning Providers and SPIs. The school funding regulations require that a local authority may not use its high needs budget to fund places, or pay top-up funding, for 19 to 25 year olds attending a maintained school, an academy school, an alternative provision academy, a non-maintained special school, or an independent school. There is an exception for those 19

year olds who are completing a secondary education course started before they were 18 years old.

154. Some schools may consider that they have the appropriate specialist expertise to prepare students aged 19 to 25 with an EHC plan for adult life, including independent living and employment. To receive high needs funding for such young people, a school would have to set up a legally and financially separate entity to provide the appropriate environment for young people of that age. Once established, and in order to be eligible for ESFA funding for the first time, the new entity should follow the High needs funding: due diligence process for special post-16 providers and must also be notified to ESFA through the annual place change notification process the local authority in which they are located

155. For information on learners aged 19 to 25 without an EHC plan see annex 3.

Students aged over 25

156. A local authority must keep an EHC plan under review. For a student with an EHC plan when they are 24 years old, the plan normally ceases when the student turns 25, although local authorities have a power to extend an EHC plan until the end of the academic year in which the student turns 25.

157. If a local authority extends the EHC plan until the end of the academic year, the local authority must continue to provide top-up funding to the institution until that time.

158. If the local authority makes an exceptional decision not to extend the EHC plan to the end of the academic year, it must discuss the transition arrangements for the young person with the ESFA. Place funding is allocated to the institution by ESFA for the full academic year and would not normally be clawed back if the EHC plan is not extended.

159. Local authorities are not responsible for commissioning provision for students with SEND who are 19 to 25 without an EHC plan or who are over the age of 25. Links to the funding arrangements for these students are at annex 3.

Annex 1: special schools minimum funding guarantee

160. The minimum funding guarantee (MFG) for special schools in 2020 to 2021 is set by a condition of grant that applies to local authorities' DSG, and protects schools from seeing a reduction in funding from year to year assuming that the number and type of places remains the same between 2019 to 2020 and 2020 to 2021 financial years. It also assumes that all pupils in the school are placed by the provider authority and that all top-up rates received by the school are those set by the provider authority. This 0% MFG provides a higher level of protection than the minus 1.5% applicable in 2019 to 2020.

161. Once the MFG assessment confirms 2020 to 2021 top-up funding rates received by the school are in line with the guarantee, they can then be applied to reflect the actual number and type of places at the school.

162. When calculating protection, local authorities should make sure that they are comparing like with like. Adjustments can be made for changes in the nature of the provision, for example, if previous top-up rates included an element for a commissioned service which is no longer provided by the school, the value of that element can be discounted when calculating the MFG protected level.

163. Where a local reorganisation takes place and there are changes to bandings, the 2019 to 2020 pupil numbers and types for each school should be attributed as far as possible to the new bandings in order to assess whether any special school loses more than the MFG set by the local authority in 2020 to 2021. If the MFG is breached and the local authority proposes to fund below the guaranteed level, the local authorities should apply for an exemption to the MFG using the disapplication request form. Any such request will be expected to have the agreement of the local schools forum and the schools concerned. Information provided should include the impact on the schools affected. Requests will be considered on a case-by-case basis.

164. Disapplication of the condition of grant may also be sought where it's not possible to compare the top-up funding rates between the two years, for example, where there has been a major reorganisation of local provision.

165. The worked examples provide two scenarios of how the MFG is calculated for a 100 place special school, which in 2019 to 2020 was occupied by a total of 90 pupils, 30 in each of 3 different bands.

Special schools funding: 2019 to 2020	Band 1	Band 2	Band 3	Total
Number of places				100

Special schools funding: 2019 to 2020	Band 1	Band 2	Band 3	Total
Number of pupils	30	30	30	90
Top-up rate	£3,000	£4,000	£5,000	
Place funding				£1,000,000
Top-up funding	£90,000	£120,000	£150,000	£360,000
Total funding				£1,360,000

2020 to 2021: MFG scenario 1	Band 1	Band 2	Band 3	Total
Number of places				100
Number of pupils	30	30	30	90
Top-up rate	£2,700	£4,100	£5,300	
Place funding				£1,000,000
Top-up funding	£81,000	£123,000	£159,000	£363,000
Total funding				£1,363,000
MFG % difference from 2019 to 2020				0.2%

2020 to 2021: MFG scenario 2	Band 1	Band 2	Band 3	Total
Number of places				100
Number of pupils	30	30	30	90
Top-up rate	£2,800	£3,800	£4,500	
Place funding				£1,000,000
Top-up funding	£84,000	£114,000	£135,000	£333,000

2020 to 2021: MFG scenario 2	Band 1	Band 2	Band 3	Total
Total funding				£1,333,000
MFG % difference from 2019 to 2020				-2.0%

166. In the first scenario, 1 of the 3 top-up funding rates has reduced. Overall, though, the funding for the school would remain above the 0% MFG level if the number and types of places remained the same. Therefore, 2020 to 2021 top-up funding rates are in line with the guarantee and funding to the special school should reflect these rates (for students placed by the provider authority); the number of students in each band; and the actual numbers of places.

167. In the second scenario, two of the three top-up funding rates have reduced. However, in this case the difference exceeds the 0% MFG level and so the rates will need further adjustment

Annex 2: alternative provision (AP)

Alternative provision: context

168. Alternative provision provides support to children at challenging moments in their lives and each placement has the potential to transform a child's life chances.

169. When children of compulsory school age are not receiving suitable education, the local authority has a duty, under Section 19 of the Education Act 1996, to arrange it.

170. Occasions when a child has to be placed in an alternative setting for a period of time could be as a result of a temporary or permanent exclusion or where a child has health-related needs that mean they are unable to attend a mainstream school full-time. Many schools make use of AP services before the need for exclusion arises. In the majority of cases the intention is for these children to return to their mainstream school and the length of the placement should be determined by the needs of the pupil.

171. Local authorities make arrangements for AP (including hospital education), and this is normally funded from their high needs budget. There is flexibility for local authorities to devolve some decision-making and funding for AP to schools, and there is evidence to show that this can be effective in promoting inclusion and accountability. Where a pupil remains on the role of a mainstream school, the school is effectively acting as a commissioner of AP and retains accountability for the child's education. For example, where a pupil is temporarily excluded from a mainstream school for longer than five school days, the school is responsible for commissioning and funding alternative provision from the sixth school day of the exclusion.

Organising and funding alternative provision

172. We acknowledge there are different ways local authorities and schools/academies can discharge their responsibilities and expect them to explore the most effective arrangements for AP commissioning and funding in their area. Local authorities should always take account of the needs of local schools in determining the demand for AP and how it is delivered and encourage schools to think collectively about their use of AP, and how the full cost of provision is to be met. Many local areas have developed strong partnership arrangements which seek to share responsibilities across schools for AP commissioning, funding and accountability. Such arrangements can include the local authority devolving some decision-making and funding to groups of schools.

173. Funding devolved to schools or partnerships of schools remains as a central budget under the authority's central control and the terms of its use should be covered by a service level agreement or memorandum of understanding with the schools and academies involved. As with other elements of high needs funding held centrally, under the conditions of grant associated with the DSG, the local authority must treat maintained schools and academies on an equivalent basis and make sure that any distribution of such funds is fair and reasonable.

174. The local authority should make sure that there is consultation with the schools forum on the way AP funding is used and distributed. The schools forum regulations are intended to ensure that the arrangements for AP funding are properly discussed at local level – with engagement not only from the local authority, but also from the mainstream schools and academies, PRUs and AP academies and free schools. This is explained in the schools forums operational and good practice guide.

175. The regulations and scheme for financing schools do not permit local authorities to make a differential charge on schools' and academies' budget shares according to their use or intended use of AP. It is possible, however, to use funds relating to pupils leaving the school roll, which have been deducted from schools' budget shares under regulation 27 of the School and Early Years Finance Regulations, or under the similar arrangements with academies, to offset some of the cost of places. This is explained further in the section on funding adjustments for permanent exclusions.

Funding for AP institutions

176. AP institutions can receive high needs funding in different ways:

- core funding: the annual allocation of funding on the basis of an amount per place ("place funding"), which an institution receives either directly from the home local authority (for PRUs, based on the financial year), or from ESFA (for AP academies and AP free schools, based on the academic year)
- top-up funding: the funding required, over and above the core or place funding, to enable a pupil to participate in education

- top-up funding is paid to AP institutions by the local authority or school that commissions each place
- locally negotiated funding for AP services, such as outreach, which are outside the place funding and top-up funding model
 - funding for independent AP is also locally negotiated between commissioner and provider as it is outside the place funding and top-up funding system

177. It should be noted that post-16 students in PRUs, AP academies and AP free schools are not funded in the same way as pre-16 students. An institution will not receive AP place funding for post-16 students because this type of institution is, by definition, a school set up to educate children of compulsory school age. In the event that an AP institution does have post-16 high needs students with special educational needs, usually with an EHC plan, these places can be funded on the same basis as post-16 students in mainstream schools as shown above.

178. Where the local authority commissions a place at a PRU, AP academy or AP free school, the top-up funding comes from the local authority's high needs budget. Where a school commissions a place at a PRU AP academy or AP free school, the top-up funding may come from centrally held high needs funding that has been devolved to that school or a local partnership of schools (e.g. via a service level agreement), or from the school's delegated budget share or (if an academy) general annual grant.

179. It is in the interests of the local authority, its schools and academies, and institutions offering AP, to agree the referral process and process for resolving concerns about admissions. If the local authority is unable to place a particular pupil because they are not suited to the type of provision offered by a PRU, AP academy or AP free school, they would need to make other arrangements.

Place funding for PRUs, AP academies and AP free schools

180. Each PRU, AP academy or AP free school usually has a number of places to offer pupils permanently excluded by schools or who cannot get a school place for other reasons. In this case the commissioner would normally be the local authority. Many AP institutions will also have places for pupils who are on part-time or shorter-term placements. In many cases local schools would be the commissioner for these places.

181. We have not defined a 'place' in the regulations, but we expect that a place will generally be available for occupation by a full-time equivalent (FTE) pupil. We accept that in AP settings places may not be filled by the same individual throughout the year. Identification of places is not determined by pupils' registration status. Where pupils are dual registered with a mainstream school, the time they spend attending a PRU, AP academy or AP free school should be accounted for in the number of places identified.

182. It is important that AP settings are not overfunded where places are not required, but there will be occasions when places remain unoccupied, for example to accommodate unpredictable fluctuations in demand. There will also be places that are occupied by more than one individual attending on a part-time basis (for example a place may be filled by a child who attends for 2 days a week from one school, and another child who attends for 2 days from another school, with no child present for one day a week).

183. It may not be appropriate for place funding to be provided for some AP services where children are receiving their education off-site, e.g. a home tuition service, or an outreach service provided by teachers whose base is the PRU or AP academy/free school. These services should be funded through a service level agreement with the commissioning local authority or school.

184. As in previous years, pre-16 AP places will be funded at £10,000 per place in 2020 to 2021, regardless of whether the place will be commissioned directly by a school or by a local authority.

185. The number of AP places to be funded in PRUs and AP academies should be agreed by the local authority and the institutions, in consultation with those schools in the area which may need to commission places. This may require consultation with other local authorities and their schools if they are likely to commission places in the PRU or AP academy. As explained previously, post-16 students in AP settings are not funded in the same way as pre-16 students, but on the same basis as post-16 students in mainstream schools.

186. Local authorities have flexibility to change the number of places they fund in 2020 to 2021 at PRUs, and should only notify ESFA of changes to the place numbers in AP academies, using the 2020 to 2021 place change notification process. ESFA contacted AP free schools directly in November 2019 detailing how their 2020 to 2021 high needs place numbers would be determined. Evidence to support changes in place numbers may have been required, and we recommended that PRUs, AP academies and AP free schools engage early with local authorities and schools commissioning places.

187. As with special academies, 2020 to 2021 places funded at AP academies are deducted from the DSG of the local authority in whose area the academy is located.

188. No deduction is made for places in AP free schools opening during the 2019 to 2020 or 2020 to 2021 academic years. However, a deduction is made from the DSG for places in AP free schools open before or during the 2018 to 2019 academic year. Deductions for the 2020 to 2021 academic year are made from the DSG of the local authority where the pupil lives, based on October 2019 school census data. These deductions will be notified to local authorities in March 2020.

189. AP academies and AP free schools should receive notification of their 2020 to 2021 allocations of place funding from ESFA by the end of March 2020, and PRUs from their local authority by end of February 2020.

190. Place funding provides some certainty for institutions, but a stable income and financial viability will continue to depend on:

- developing strong relationships with local authorities and schools that commission places
- working out with commissioners top-up funding rates that reflect the costs, including (for example) the costs of under-occupancy when places are not filled (see section on top-up funding below)
- where appropriate, developing commissioned services that can provide an income from authorities and schools on a longer-term basis (for example, through a 2 or 3 year contract)

Top-up funding

191. Top-up funding for AP institutions is not usually related to an assessment of special educational needs. A standard top-up funding rate is often set for each PRU, AP academy or AP free school, which reflects the overall budget needed to deliver the provision for pupils and students attending.

192. Cost transparency is an important feature of the high needs funding arrangements. Local authorities and schools should be aware of the full cost of AP in different institutions and be able to make placement decisions on the basis of the cost and quality of what is on offer. It is therefore important that schools forum discussions about how AP is funded should include information about top-up funding rates for institutions and where the top-up funding and place funding for AP comes from.

193. There is often a very fluid movement of pupils and students in and out of AP during the course of a year. The extent of this movement can create uncertainty and volatility in an AP institution's budget planning. Recognising this, there are ways in which administration of top-up funding may be simplified.

194. One way, for example, would be for the AP institution to agree an estimate of the take up of places at the beginning of the year with its main commissioning local authorities and schools. Top-up funding could then be paid on account every month throughout the year; and a termly or year-end reconciliation could take place to reflect actual take up of places by individual pupils during the period (the difference between estimated and actual take up). This would give the AP institution more certainty over its in-year cash flow, enabling it to employ the staff needed to provide a high quality service throughout the year, and to adjust the quality and nature of provision over time to meet local authorities' and schools' demand.

195. It is important that top-up funding relates to pupils actually occupying places. The aim of the system of place funding and top-up funding is to give a proper balance between sustainable income for the AP institution, and flexibility to commission AP that meets the needs of individual pupils. Funding based solely on places, which may or may

not be occupied, risks spending scarce resources on places that are needed neither by local authorities nor by schools and academies. It also ties up funding that would otherwise allow decisions to be taken about the most appropriate AP for an individual pupil.

196. We are not prescriptive about how the calculation of top-up funding reflects the period that a child or young person occupies a place. Some AP institutions operate on the basis of a daily rate, but in many cases, it would be more straightforward to calculate the top-up funding using longer periods, for example weekly, monthly or even termly rates.

197. Commissioning local authorities and schools will want to carefully consider the top-up funding arrangements to make sure that there are no perverse incentives and that the funding achieves the intended outcomes.

198. It would also be possible to develop a top-up funding system that more closely reflects the achievement of desired outcomes, as a way of encouraging high quality AP. The AP institution could receive an enhanced rate of top-up funding after the end of the placement if the intended outcome for the pupil or student had been achieved.

199. For example, a mainstream school could be seeking a particular intervention for a year 11 student which would enable him or her to successfully complete their GCSE exams; it could agree a short term placement for the student at a local PRU and an additional amount of top-up funding that would be paid after the student's exam results are known, and if the expected grades had been achieved. Similarly, a local authority may wish to agree that an additional amount of top-up funding is payable if a Year 11 pupil is in education, employment or training in the year after leaving AP.

200. Such arrangements are not mandatory, but could be used to secure better outcomes and improve the quality of AP.

Commissioned AP services

201. In many cases the services offered by a PRU or AP academy or free school will not be appropriately funded through the combination of place and top-up funding. Teachers at the AP setting may be involved in outreach work with local schools and academies or may be employed by them on a consultancy basis to advise on behaviour management. The local authority may use a PRU's staff to provide home tuition to children with medical needs or to provide a service to pregnant teenagers or young mothers who cannot easily attend school. These are examples of services that would normally be funded by the commissioning local authority or school, or group of schools, under a service level agreement that specifies what is required and the funding to be paid.

202. Where the local authority commissions the service, the funding would come from its high needs budget.

203. Where a school or group of schools commissions the service, the funding would come either from those schools' delegated budget share, or from centrally held high needs funding that has been devolved to schools. Any distribution of devolved AP funding should be fair and treat maintained schools and academies in the same way.

204. As with other centrally held AP budgets, the local authority should make sure that there is consultation with the schools forum on the amount retained and how it is used and distributed. For certain centrally held budgets, including for services relating to the education of children with behavioural difficulties, and on other activities for the purpose of avoiding the exclusion of pupils from schools, the regulations require schools forum agreement to the amount retained.

Permanent exclusions: funding adjustments

205. As noted above, we encourage schools and local authorities to explore the most effective arrangements for AP commissioning and funding in their area, including for children who have been permanently excluded.

206. Where pupils are excluded, under the School and Early Years Finance Regulations funding should flow in-year from the school that has excluded the pupil to the provision that takes responsibility for the pupil.

207. If a school subsequently admits a pupil who has been permanently excluded during that financial year, it should then receive additional funding.

208. The provisions also apply to pupils who leave a mainstream school for reasons other than permanent exclusion and are receiving education funded by the local authority other than at a school.

209. The provisions also act independently of whether a particular pupil has been on the school census in the first place, and whether the school has therefore received funding for them.

210. Local authorities are responsible for adjusting the budget shares of mainstream maintained schools if a pupil is permanently excluded so that funding follows the pupil. Further information on this, including calculating the amount to be deducted from the excluding school's budget and admitting school's budget (if appropriate), is available in the redetermination of budgets where pupils have been excluded section of the schools funding operational guide.

211. Different funding arrangements apply in relation to pupils excluded from PRUs, AP academies, maintained special schools, special academies and children in designated special units or resourced places at mainstream schools. These schools receive base funding for each place, which is not linked to individual pupils and so is not withdrawn following a permanent exclusion. Similarly, the calculation for an admitting school would not be used for a PRU, AP academy or AP free school. They also receive top-up funding

that is linked to individual pupils. When commissioning places at one of these types of school, local authorities and schools should formally agree with the providing school what proportion of this top-up funding will be returned if a pupil leaves the school (for any reason). See paragraphs above for further information on how top-up funding works for PRUs, AP academies and AP free schools.

212. The only exception to this is where pupil premium is payable in respect of a pupil attending a PRU or special school maintained by the local authority. In this situation local authorities must adjust the school's budget in accordance with the same formula that applies to mainstream schools. In the case of AP and special academies, local authorities should claim from the academy an amount equivalent to the pupil premium (as calculated according to the formula in the regulations), or pay the academy the relevant amount when a previously excluded pupil joins the academy.

Annex 3: other information

213. This section provides information that may be useful but is not covered in this guidance.

Support funding through the ESFA adult education budget

214. Support funding is available through the ESFA adult funding methodology for learners aged 19 and above without an EHC plan. Support funding (learning and learner support) enables providers to meet the additional needs of learners who may have certain barriers to start or complete their learning goal.

Learning support

215. Learning support is available to meet the cost of putting in place a reasonable adjustment, as set out in the Equality Act 2010, for learners and apprentices who have an identified learning difficulty or disability, to achieve their learning goal.

216. Learning support must not be used to deal with everyday difficulties that are not directly associated with a learner's or apprentice's learning on their programme.

217. Learning support will be earned at a fixed monthly rate if it has been reported in the individualised learning record (ILR) or claimed on the earnings adjustment statement.

Exceptional learning support claims above £19,000

218. Learners who need significant levels of support to start or continue learning can get access to exceptional learning support if their support costs more than £19,000 in a funding year.

219. Learners aged 19 to 24 requiring significant levels of support would normally be expected to have an EHC plan provided by their local authority and, therefore, would access funding from their local authority.

220. If a learner has support costs of more than £19,000 in a funding year, providers can claim exceptional learning support (ELS).

221. Providers must submit ELS claims at the beginning of the learner's programme, or when you identify the learner requires support costs more than £19,000 in a funding year, by completing and sending the ELS claims document.

222. To claim exceptional learning support for a learner aged 19 to 24 you must confirm why the individual does not have an EHC plan. This should be a letter or email from the

learner's local authority stating the reasons why the individual does not need an EHC plan.

Learner support

223. Learner support is available to provide financial support for learners with a specific financial hardship preventing them from taking part or continuing in learning. Before providers award support to a learner or apprentice, you must identify their needs within:

- hardship funding: general financial support for vulnerable and disadvantaged learners
- 20+ childcare funding: for learners aged 20 or older on the first day of learning who are at risk of not starting or continuing learning because of childcare
- residential access funding: to support learners where they need to live away from home

224. Full details of support funding are contained within the ESFA adult education budget guidance.

225. Information on ESFA adult education budget funding and performance rules is available within the adult education budget guidance.

226. ESFA adult education budget will only apply to:

- individual's resident in areas of England outside of the devolved authority areas undertaking ESFA funded AEB provision
- continuing AEB funded learners in England, including those resident in a devolved authority area, who have not completed their learning by 31 July 2019
- learners resident in England attending providers who meet the specified criteria above and will be funded nationally in 2019 to 2020 and 2020 to 2021
- learners resident in England, including those resident in a devolved authority area, undertaking a 19-24 traineeship programme

Support funding through the apprenticeships funding methodology

227. Funding support for apprentices (all ages) is met by ESFA through the apprenticeship funding methodology. ESFA will provide learning support for apprentices to help with learning that affects their ability to continue and complete their apprenticeship. Learning support and Learner support for all age apprentices follow the apprenticeship funding rules.

228. Apprentices (aged 16 to 24) with an EHC plan are able to access learning support and exceptional learning support as detailed in the apprenticeship funding rules.

Additionally, apprentices aged 16 to 18, and apprentices with an EHC plan, or care leavers aged 19 to 24, will qualify for an additional payment of £1000 towards additional costs of training for both the provider and the employer. Full details are available in the 'additional payments' section of the apprenticeship funding rules.

229. More information on apprenticeships is available.

Free meals for FE institutions

230. Further information on free meals for FE institutions can be found in 16 to 19 education: financial support for students guidance. This includes information for institutions where the cost of meals is sometimes included as part of the package of support that is agreed with local authorities.

SEND code of practice

231. Local authorities, maintained schools and academies, general FE colleges, non-maintained schools and all independent special schools and special post-16 institutions on the section 41 approved list must have regard to the Department's statutory guidance on the special educational needs and disability (SEND) system for children and young people aged 0 to 25.

Welsh students studying in English FE colleges

232. The Welsh government may consider paying top-up funding for high needs students from Wales studying in English FE colleges. The institution should assess the needs of the student and then contact the Welsh government to discuss payment of top-up funding. Place funding (elements 1 and 2) will be funded in the usual way direct by ESFA to colleges.

233. Institutions are not expected to recruit students from outside their normal recruitment area and should note that the Welsh government may decide not to make top-up payments for students at an English institution where suitable alternative provision is available nearer to their home.

Welsh pupils with high needs studying in English schools

234. English and Welsh local authorities continue to have a statutory basis for the recoupment of the costs of certain pupils with high needs who are attending schools across the border from where they live. The inter-authority recoupment regulations enable local authorities to recover the costs of pupils with EHC plans, pupils in special schools, and pupils in hospital education.

235. There are no equivalent statutory arrangements for pupils or students from other countries in the UK or elsewhere, and local authorities and institutions are able to negotiate the recovery of costs as they consider appropriate, taking account of other relevant legislation (such as the Equalities Act).

Annex 4: Glossary of abbreviations

236. To help you understand the abbreviations used in this guide, we've put together a glossary of terms:

Abbreviation	Definition
AP	alternative provision
APT	authority proforma tool
DAF	disability access fund
DSG	dedicated schools grant
EHCP	education, health and care plan
FE	further education
FSM	free school meals
IDACI	income deprivation affecting children index
ILP	independent learning provider
ILR	individualised learner record
ISB	individual schools budget
NFF	national funding formula
NMSS	non-maintained special school
PRU	pupil referral unit
SEN	special educational needs
SEND	special educational needs and disabilities

Annex 5: Useful links

237. The below are links to resources for further information on related guidance and legislation:

- [School and Early Years Finance \(England\) Regulations 2020](#)
- [Children and Families Act 2014](#)
- [Dedicated schools grant \(DSG\): 2020 to 2021](#)
- [National funding formula tables for schools and high needs: 2020 to 2021 - GOV.UK](#)
- [Special free schools adjustments: a guide for local authorities 2020 to 2021A](#)
- [review of school exclusion: terms of reference](#)
- [Public Contracts Regulations 2015](#)
- [School census: guide to submitting data](#)
- [Individual learner record: guide to submitting data](#)
- [Schools revenue funding 2020 to 2021: Operational guide](#)
- [Section 251: 2019 to 2020](#)
- [Schools forum operational and good practice guide](#)
- [High needs benchmarking tool](#)
- [Disapplication proforma 2020 to 2021](#)
- [Early years national funding formula: funding rates and guidance](#)
- [SEND code of practice: 0 to 25 years](#)
- [Get childcare: step by step guidance](#)
- [Academies: making significant changes or closure by agreement](#)
- [Education Act 1996](#)
- [Hospital education funding: guidance](#)
- [Full-time enrolment of 14 to 16-year olds in further education and sixth-form colleges guidance](#)
- [High needs funding: due diligence process for special post-16 providers](#)
- [Guide for independent special institutions on applying for inclusion on the Secretary of State approved list](#)
- [16 to 19 funding: maths and English condition of funding guide](#)
- [Providing supported internships for young people with an EHC plan](#)
- [Funding rates and formula guidance](#)
- [Schemes for financing local authority maintained schools](#)
- [Education \(Amount to Follow Permanently Excluded Pupil\) Regulations 1999](#)
- [Equality Act 2010](#)
- [ESFA funding claims and reconciliation](#)
- [Adult education budget guidance](#)
- [Apprenticeship funding rules guidance](#)
- [Further education and skills apprenticeships](#)
- [16 to 19 education: financial support for students guidance](#)

- [Inter-authority Recoupment \(England\) Regulations 2013](#)



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<h1>BRIEFING</h1>	TO:	Schools Forum
	DATE:	26 th June 20200
	LEAD OFFICER:	Mary Jarrett Head of Inclusion Services CYPS mary.jarrett@rotherham.gov.uk
	TITLE:	Up-date on SEN Sufficiency Projects.
1. Background		
1.1	<p>On 20 May 2019, Cabinet approved a report setting out the Local Authority's proposals to utilise capital funding to increase the sufficiency of school places for children with Special Education Needs and Disabilities (SEND) in Rotherham.</p> <p>On 16th September Cabinet approved a capital spending programme of £1.186 million to create 111 additional school places in Rotherham starting from 2020, for children with special education needs and disabilities</p> <p>This Report provides an up-date with regard to the progress of these Units.</p>	
2. Key Issues		
2.1	<p>The Dedicated Schools Grant (High Needs Budget) in Rotherham has been under significant pressure since the introduction of the SEND Code of Practice in 2015. There is now increased demand for statutory assessments and for placements within specialist education provision. An increase in places in Rotherham for children with autistic spectrum conditions, moderate learning difficulties and social, emotional and mental health issues will reduce the pressure caused both by the predicted rise in numbers of children with education, health and care plans but also on the pressure to place children in high cost independent specialist provision because of a lack of appropriate local resources.</p>	
2.2	<p>Rotherham's SEN Sufficiency projections estimate that by September 2020 there will be 2312 children with Education, Health and Care plans in Rotherham rising to 2500 children in 2021.</p>	
2.3	<p>In order to meet the needs of the growing population of children with identified Special Education Needs in Rotherham and to avoid costly out of area placements the Council has approved a Capital Spending programme of £1.186 million pounds which will provide an additional 111 specialist school placements for children with Special Education Needs. These are in addition to the 125 places which were agreed in phase 1.</p>	
2.4	<p>This report identifies that most agreed projects will be impacted by the recent Coronavirus management and it is not possible to predict the impact on this on constructions yet. Most projects will be built in August and it is not clear at present whether they can be delivered within timescales.</p>	

In addition to uncertainty regarding continuation of building works there have been some additional delays and project issues, these are as follows:

The Aspire Primary site at Canalside: It is expected that the Canalside property will be ready by October 2020 creating a delay of one month from projected timescales.

The extensive works planned at Thomas Rotherham College (TRC) are projected to cost £400,000 which is an additional £250,000 to the funding already identified. TRC have offered a contribution of £100,000. The Council Designers are reviewing the plans to see what areas can be revised to accommodate the TRC vision whilst reducing the projected costs to circa £250,000.

Wath Victoria was tendered and was substantially over the budget of £100,000. This is currently being valued engineered by the Council's Design and Projects Team.

RISK

It should be noted that due to Covid19 there is a significant risk to projects not being completed on time.

3. Key Actions and Timelines

3.1

School	Proposal and Timescales
Maltby Hilltop School (Nexus)	<p>SEND Phase 2 Additional Classrooms 6 places Modular Unit £130,000.</p> <p>The tender report had come in at £182,000. Maltby Hilltop are providing £57,000 with the Council funding the remaining £125,000.</p> <p>Smaller modular unit repriced by R H Fullwoods as part of value engineering exercise. Tender report £151,036.29. Approved.</p> <p>Funding: Council £121,000 Maltby Hilltop School £40,000</p> <p>Planning application submitted 23rd January 2020. RB2020/0131 and was approved on the 17th March 2020.</p> <p>Timescale:</p> <p>Start on site: 29/06/2020 Completion: 21/08/2020</p>

<p>Kelford School (Nexus)</p>	<p>SEND Phase 2 Remodelling of classroom and provision of external canopy 5 places £65,000</p> <p>Remodelling of classroom completed during February half term.</p> <p>Canopy to be completed during the school summer holidays.</p> <p>Planning application submitted 5th February 2020. RB2020/0185 Approved: 31/03/2020</p> <p>Completion: 21/08/2020.</p>
<p>Wath Victoria Primary School (JMAT)</p>	<p>SEND Phase 2 Additional classroom 10 places £100,000</p> <p>Delayed due to Covid 19</p> <p>Timescale: Operational from September 2020 to be reviewed.</p> <p>Tenders received: £234,557. Substantially over the budget. Currently being valued engineered to reduce cost.</p> <p>Planning submission: 31/1/2020 Planning approval: 27/3/2020 Building Regs. Approval: 1/5/2020 Tender period: 3/4/2020 - 11/5/2020 Onsite: TBA</p>
<p>Thomas Rotherham College Post 16</p>	<p>SEND Phase 2 Unit for post 16 20 places £150,000</p> <p>Mezzanine floor to the dining area to provide the additional space for 20 places.</p> <p>TRC have offered a contribution of £100,000.</p>

		<p>Total budget £250,000.</p> <p>Delayed by Covid19</p> <p>Further work undertaken with the contractor showed the college brief/proposals to be in excess of the budget of £250,000.</p> <p>The Council Design and Projects Team are presenting options to the college to enable the project to be within the £250,000 budget.</p> <p>Because of the Covid delay and further revalue engineering works the project has been put back to September 2021.</p>	
	<p>Milton School (Interaction and Communication Academy Trust Limited)</p>	<p>SEND Phase 1 and 2 Classrooms 20 Places £400,000</p> <p>Planning submission: 24/1/2020 Planning approval: 20/3/2020 Building Regs. Approval: 20/3/2020 Tender period 6/3/2020: 3/4/2020 Tender £398,964.12</p> <p>Start on site delayed due to Covid19</p> <p>Start on site: 22/6/2020 Completion: 09/10/2020</p>	
	<p>Wales High School (Wales Academy Trust)</p>	<p>SEND Phase 1 and 2 Classrooms 20 Places £400,000</p> <p>Extension of Wales High School is projected to cost £459,000 that is £59,000 over budget. Wales High School is unable to contribute to these costs. The Council to fund the additional cost from Basic Funding projects that have slipped to 2021</p> <p>Start on site delayed due to Covid 19</p>	

		<p>Planning submission: 24/1/2020 RB2020/0134 Planning approval: 09/3/2020 Building Regs. Approval: 6/3/2020 Tender period: 7/2/2020 – 6/3/2020</p> <p>Started on site 01/06/2020 Completion: 16/10/2020</p>	
	<p>Brinsworth Academy (Learner Engagement and Achievement Partnership Multi-Academy Trust)</p>	<p>SEND Phase 2 Classrooms 15 Places £250,000</p> <p>The initial estimated cost was £306,000 based on Brinsworth Academy proposals. The design has been revised to reduce costs down to below £250,000. These options were sent to Brinsworth on the 16th March 2020.</p> <p>Delayed due to Covid19</p> <p>Brinsworth response received 27/05/2020 to the options.</p> <p>The Council's Design and Projects Team working with the school on option appraisal.</p> <p>Operational from September 2021.</p>	
	<p>Waverley Junior Academy (ACET)</p>	<p>SEND Phase 1 Standalone building part of new school development. 10 Places – Section 106 funding</p> <p>Delayed due to Covid 19</p> <p>The contractor Geo Haultons have revised the programme which is indicating the school buildings to be open on 1st September 2020; the hard landscaping would be completed approximately 17th September 2020, and the soft landscaping completed approx. 4th November 2020.</p> <p>Completion 1st September 2020.</p>	

3.2	<p>Thrybergh Primary School (Wickersley Partnership Trust)</p>	<p>SEND Phase 2 10 Places Use of Rainbow Children Centre building £41,000</p> <p>Rainbow Centre to be retained by the Council for use by a private nursery.</p> <p>The Hengis Block will be transferred to the Wickersley Partnership Trust.</p> <p>Allocation reduced from £41,000 to £13,000. Work to be procured by Wickersley Partnership Trust</p> <p>Delayed due to Covid19</p> <p>Operational from September 2020.</p>	
	<p>Aspire</p>	<p>SEND Phase 1 and Phase 2 15 Places Phase 1 10 Places Phase 2 £75,000</p> <p>Phase 1 completed August 2019 £49,000</p> <p>Phase 2 Waiting for brief, delayed move to Canalside Property due to Flooding. Flood clearance work (including clearing contaminated land) due to be completed by October 2020.</p>	
	<p>Rockingham Caretakers House (Willow Tree Academy Trust)</p>	<p>SEND Phase 2 10 Places £70,000</p> <p>Work to be procured by Willow Tree Trust</p> <p>Currently with RMBC legal team preparing legal agreement for the expenditure of the £70,000</p> <p>Operational from September 2021.</p> <p>Building project is being managed by the Trust. Legal agreements are therefore being prepared Michael Lennox in RMBC Legal.</p>	

		<p>Initial response to planning application has confirmed that the Caretakers House is built on green belt land. The Trust are working with building and legal consultants to explore the ramifications of this. This presents a significant risk to delivery and should the project be undeliverable in this property RMBC will work with the Willow Tree trust to explore alternatives.</p>	
<p>During academic year 2019/20 RMBC Special Education Needs Panel have worked to identify children and young people who would benefit from placement at these new provisions in accordance with the SEN Code of Practice 2015. It is anticipated that these Units will be fully utilised by academic year 2020/21.</p>			
<p>4. Recommendations</p>			
<p>4.1</p>	<p>That the progress in relation to developing the new SEN Sufficiency projects is noted.</p>		

Schools Forum Briefing

1.	Date of meeting:	26th June 2020
2.	Title:	Risk Protection Arrangement (RPA)
3.	Directorate:	Finance & Customer Services

Summary

Following a government consultation, the Department for Education (DfE) is extending the academies' Risk Protection Arrangement (RPA) to Local Authority maintained schools.

This paper provides information on the scheme – as much as we know to date - and aims to advise on the issues that should be considered by schools before signing up.

Recommendations

- That the contents of the briefing are noted.

1. Background

Originally developed to enable academies to access affordable insurance cover, the Department of Education (DfE) is set to extend the Risk Protection Arrangement (RPA) to Local Authority maintained schools from April 2020.

While the RPA's headline rate of £18 per pupil can understandably look attractive, it's important to undertake a full comparison of what's available before deciding whether to switch.

1.1 Cover Comparison

Firstly, it's important to consider the cover. The RPA provides an extensive range of property and casualty covers including the reinstatement value of the property in the event of material damage; Business Interruption cover of up to £10m for increased cost of working; and unlimited Public Liability, Employers' Liability and Professional Indemnity.

As it's designed as a 'one-size-fits-all' approach this will suit some schools, but others could find there are significant gaps when compared to the cover accessed through their Local Authority. Alongside potentially lower limits on some areas of cover – for instance £100,000 of Personal Accident cover through the RPA compared to no fixed limit for insurance arranged by the Local Authority – the scheme doesn't provide some of the insurance that Local Authorities currently do, notably Motor and Cyber cover, as well as Engineering Inspections. This cover/service will have to be sourced and arranged separately at additional cost to the school.

Similarly, there are no guarantees as to how the RPA proposes to address any emerging heads of claim / risks that may occur in the future.

There are also concerns that as the RPA is a pooled pot of money, rather than an insurance policy placed with an external insurer, a run of large claims could cause serious problems. In the event of a string of high value losses exhausting pool reserves the scheme would be reliant on the DfE or Treasury to top up the pool to pay for these and future losses. Alternatively, they may turn to schools for additional funding and/or increased contributions, which some schools may not be able to afford.

Discretionary pooling arrangements don't provide any contractual guarantee of payment either now or in the future. If the Government (or a new Government?) decided that the RPA was no longer viable and terminated the scheme it's unclear whether the DfE would continue to pay claims that it wasn't legally obliged to honour or whether this liability would revert back to the Council, given that we still have statutory duties linked to the provision of education.

1.2 Support Services

Cover is one element that needs to be considered but it's also important to note that the recharge the Local Authority makes to a school doesn't just comprise the cost of insurance.

As well as the cover, the Insurance Section also provides invaluable Insurance and Risk Management advice and guidance, a comprehensive claims handling service and other general support; such advice and assistance are not readily available from the RPA.

Additionally, while the RPA does include £100,000 of cover for legal expenses, in some situations this could be far below the value of the service and support provided by the Local Authority's Insurance Section and our designated legal partners.

It's worth noting that dealing with a complex Public or Employer's Liability insurance claim will often incur legal costs that far outweigh the damages awarded to the claimant. Such costs are currently absorbed in their entirety by the Council's Insurance Fund.

1.3 Break in Long Term Agreement

As well as assessing how any losses would be treated under both arrangements, issues could also arise as a result of schools moving to the RPA that would impact on those schools who choose to remain insured by the Council.

Removing schools from an authority's insurance programme could be regarded by the insurers as a break in the Long-Term Agreement (LTA), potentially leading to increases in premiums. In the current hardening market, this could prove expensive. Rotherham is currently tied into a 3-year LTA (expiring 27th February 2022) with an option for an additional 2 years beyond that.

It's worth remembering that the Council arranges its insurance cover on a blanket basis for the entire authority rather than on a 'school by school' or 'service by service' basis, thus spreading the risk and cost across the Authority.

Consequently, although removing schools from our insurance programme would slightly reduce premiums for areas such as Property and Material Damage, it would be unlikely to yield any significant reductions for liability cover. Indeed, for the reasons outlined above, this could even see slight increases in liability premiums for all services, including schools.

1.4 Insurable Interest

Alongside the financial implications, Local Authorities also need to consider how the RPA might affect their legal position. As the Statutory Body, the authority would maintain responsibility for education, regardless of whether a school opts into the RPA.

This means that, should a claim arise, the Local Authority could still find itself facing legal action as well. As a result, even where schools are in the RPA, insurers will continue to reflect this risk in their premiums.

1.5 Conclusion

Local Authority maintained schools considering a switch to the RPA must carefully consider the implications of such a move, including factoring in the cost and value of services provided by the Authority as well as the insurance covers not provided by the RPA.

It will represent good value for some schools, but it is essential that they understand all the implications and potential costs that they, and the Local Authority, might face before making a decision.

There are still many 'unknowns' at this stage, largely because the DfE has released very little in the way of claims and performance-related information. Consequently, insurers and brokers have not been able to formulate the additional management information that would prove of great assistance in decision making.

If this situation does change in the months ahead, all relevant information will be circulated to both schools and management.

Schools requiring additional information or guidance - or wishing to opt out of the Council's insurance arrangements in favour of the RPA - should contact Andrew Shaw (Insurance Manager) in the first instance.

2. Name and Contact Details

Andrew Shaw (Insurance Manager)
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<h1>BRIEFING</h1>	TO:	Schools Forum
	DATE:	26 th June 2020
	LEAD OFFICER:	Dean Fenton Head of Access to Education Email: dean.fenton@rotherham.gov.uk
	TITLE:	Expanding and new schools contingency funding formula.
1. Background		
1.1	Where schools are expanded as a result of new housing or demographic growth which is creating a pressure on existing schools, these expansions are referred to by the Department for Education (DfE) as 'Basic Need' projects.	
1.2	Local Authorities (LA's) receive an annual allocation of Basic Need funding based on current numbers on roll and future projected growth, linked to the annual School Capacity and Planning (SCAP) return submitted by LA's in June of each year.	
1.3	Basic Need funding is used to provide the new places required in schools. Where housing developments will put a pressure on existing school places and create a shortfall, LA's can submit a business case to developers requesting a financial contribution to add additional capacity in an affected area (Section 106 of the Town and Country Planning Act contribution). These Section 106 contributions where used to add additional mainstream school capacity are also classed as basic need.	
1.4	Where schools are expanded, this can create a requirement for additional teaching staffing and, as a result it may be necessary to provide interim financial support to bridge the gap (between 1st September and 31st March for maintained Schools and 1 st September to 31 st August for Academies) due to funding arrangements.	
1.5	Funding is allocated to schools each year based upon numbers on roll on Census day in October of the preceding year. Additional pupils commencing at the start of a new academic year as the result of a basic need expansion will not be on roll at that time in order to generate sufficient funding to meet additional staffing and other agreed expenditure.	
1.6	Any new school / Academy that is open for basic need purposes is the responsibility of the Local Authority to fund. This includes both post revenue opening costs and pre start development costs.	
2. Key Issues		
2.1	The formula for funding allocations was agreed by Schools Forum in 2014, to support staffing and resource implications for expanding and new schools from the Pupil Growth element within the Schools Block of the Dedicated Schools Grant.	

Funding formula for expanding and new schools:**Expansion Funding Formula**

Teacher	Academy (12/12)	Maintained (7/12)
M6 Teacher	£31,551	£18,405
Band D T/A	£11,033	£ 6,436
SMSA	£ 1,868	£ 1,090
Resources amount per additional pupil projected	£ 252	£ 252
Fixed amount per classroom	£ 3,000	£ 3,000

New School funding Formula (pre start up)

Leadership for Academic Year prior to opening	Expenditure
Leadership funding based on L10 leadership salary as previously agreed by Schools Forum (Sept to Mar - 7/12)	£34,289
Leadership funding based on L10 leadership salary as previously agreed by Schools Forum (Apr to Aug 15 – 5/12)	£24,492

Pre start up funding allocation:

Based on the school expansions funding formula with a presumption that recruitment will occur in the term proceeding opening - April to August (5/12) of start - up year staffing:

<i>5/12 x Teacher</i>	£13,146
<i>5/12 x Teaching Assistant</i>	£ 4,597
<i>5/12 SMSA</i>	£ 778
<i>£3,000 fixed amount per classroom being opened in first year of operation</i>	£ 3,000
Total	Above multiplied by number of year groups to be opened

Diseconomies funding – based on October Census / projections:

Variation between funding and full	Projection / Actual – pupil number if full in all year groups school opens to in first year.
Variation allocation per empty seat Current AWPU rate = £3,067 per pupil	£ 3,067 x variation
Resources / premises / Infrastructure	£1,223 x variation
Deprivation (ever 6) allocation 50% + £548 per pupil 29% - 49% £300 per pupil 15% - 28% £150 per pupil 0 – 14% £ NIL per pupil	Amount (if applicable) x variation
EAL (20% +) £367 per pupil	Amount (if applicable) x variation
pupil mobility (10% +) £500 per pupil	Amount (if applicable) x variation
Low attainment factor £537 per pupil	Amount (if applicable) x variation

3. Key Actions and Timelines

- 3.1** Growth funding allocations for expanding schools are paid in July annually following confirmation of pupil growth numbers and additional staffing implications for the new academic year.
- 3.2** Allocations are approved by Schools Forum following consideration of a report recommending allocation amounts.

4. Recommendations

- 4.1** That Schools Forum notes the current expanding and new school growth funding allocations formulas.

REPORT FOR SCHOOLS FORUM

1.	Date of meeting:	26th June 2020
2.	Title:	Waverley Disapplication Request
3.	Directorate:	Finance and Customer Services

1. PURPOSE OF REPORT

- 1.1 To inform members of the Schools Forum of the local authority's intention to submit a disapplication request to vary the pupil numbers on October 2020 schools census return.

2. RECOMMENDATION(S)

- 2.1 That Schools Forum members note and supports the information contained within this report.

3. REASON FOR RECOMMENDATION(S)

- 3.1 To ensure that Schools Forum members are kept informed of disapplication request.

4.. BACKGROUND INFORMATION AND CONTEXT4.1 Context

Waverley Junior academy is scheduled for completion in early August in time for the start of the 2020/2021 academic year, but this may not be achieved given the current COVID pandemic. As a consequence of a delay to the opening of Waverley academy, pupils currently on roll at Rotherham schools who have applied to transfer to Waverley have the option to remain in their current school. This temporary measure could lead to these pupils being included in the October 2020 pupil census count at those schools and not Waverley's. 2021/2022 school budgets are mainly determined by the number of pupils on school census data.

Where a new school has opened, regulations require local authorities to estimate the pupil numbers for that school, explaining the rationale underpinning the estimates. The local authority can include those pupils registered on the temporary school's October 2020 count with Waverley, for the purpose of future funding calculations.

To ensure these pupils are not double funded regulations require the local authority submit a disapplication request to the ESFA in order to vary October 2020 pupil numbers, should the above-mentioned scenario occur. This would be an adjustment to the submitted census data of those schools where the Waverley pupils have remained on a temporary basis. It will remove those pupils who are to transfer to Waverley Junior and therefore 2021/2022 funding will reflect their removal from October 2020 census return.

The local authority has consulted with all schools to make them aware that it is the local authority's intention to submit a disapplication request in the Autumn term if necessary.

All Rotherham schools will be kept informed about the disapplication request and the completed application will be presented to Schools Forum for their approval in the Autumn term.

Names and contact details

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Neil Hardwick
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REPORT FOR SCHOOLS FORUM

1.	Date of meeting:	26th June 2020
2.	Title:	Free School Meals Applications
3.	Directorate:	Finance and Customer Services

1. PURPOSE OF REPORT

- 1.1 To inform members of the Schools Forum as to the significant increase in Free School Meal applications since lockdown imposed.

2. RECOMMENDATION(S)

- 2.1 That Schools Forum members note the information contained within this report.

3. REASON FOR RECOMMENDATION(S)

- 3.1 To ensure that Schools Forum members are kept informed of the increase in applications within Rotherham.

4. BACKGROUND INFORMATION AND CONTEXT4.1 Context

As at January 2020 school census there were 8,557 Rotherham children recorded as eligible for free school meals. During the period 23rd March 2020 to 9th June 2020 the local authority received 863 web applications in comparison to 169 received during the same period last year.

Following receipt of the 863 web applications the local authority issued 730 (85%) award notices and 133 (15%) non eligible notices.

Based on current data there are now 9287 children entitled to free school meals.

Once a child's eligibility is confirmed they remain eligible for free school meals regardless of whether the parent has a change of circumstance which means they no longer meet the eligibility criteria (this is a transitional protection introduced by the government whilst Universal Credit is rolled out).

The increased number of registered free school meal children will lead to an increase in Rotherham's 2021/2022 School's Block DSG and Pupil Premium allocations.

7. Names and contact details

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REPORT FOR SCHOOLS FORUM

1.	Date of meeting:	26th June 2020
2.	Title:	DfE School Funding guidance - COVID pandemic
3.	Directorate:	Finance and Customer Services

1. PURPOSE OF REPORT

- 1.1 To remind members of the Schools Forum of the DfE guidance issued and the current financial support the DfE has put in place at these extraordinary times.

2. RECOMMENDATION(S)

- 2.1 That Schools Forum members note and supports the information contained within this report.

3. REASON FOR RECOMMENDATION(S)

- 3.1 To ensure that Schools Forum members are kept informed of the

4.. BACKGROUND INFORMATION AND CONTEXT4.1 Context

DfE have already confirmed that schools will continue to receive their core funding allocations – as determined by the local authority for maintained schools and through the general annual grant (GAG) for academies – for the 2020 to 2021 financial year (April 2020 to March 2021 for maintained schools and until August 2021 for academies and non-maintained special schools). This will happen regardless of any periods of partial or complete closure and will ensure schools can continue to pay staff and meet other regular financial commitments, as we move through these extraordinary times.

Local authorities will also continue to receive their high needs budgets and should continue to pay top-up and other high needs funding to schools. This will ensure that the employment and payment of staff supporting pupils with special educational needs and disabilities (SEND) can continue.

Similarly, where schools pay top-up or other funding for pupils attending alternative provision (AP), or pay for other SEND or AP services, we expect these payments to continue so that teachers and other staff can be paid in accordance with their existing employment contracts.

If placements and services for the summer term have not yet been agreed, schools should fund on the basis of previous patterns of placements

There will be some instances where schools that remain open have already, or will over the coming weeks, face additional costs as a result of the coronavirus (COVID-19) outbreak. In some instances, schools will not be able to cover these from their existing resources.

Funding will be available for all state-funded mainstream and special schools, and alternative provision (PRU's). The money will be used to cover costs relating to specific items necessary to allow schools to provide appropriate support to those children who will continue to attend school under the current arrangements. The items are deemed to be;

- **increased premises related costs**
- **support for free school meals (FSM) for eligible children who are not attending school**, (where those costs are not covered by the FSM national voucher scheme)
- **additional cleaning** – required due to confirmed or suspected coronavirus (COVID-19) cases

Funding allowances

Where they need to, schools will be eligible to claim up to the limits set out below.

Mainstream schools

250 pupils or fewer	£25,000
251 to 500 pupils	£30,000
501 to 1000 pupils	£50,000
Over 1000 pupils	£75,000

Special schools and alternative provision

All schools £50,000

This funding is focused on additional costs that schools face, over and above their expected expenditure, in delivering appropriate support for their pupils through this period.

While the DfE are not asking schools to draw on existing reserves to meet these costs, they do not expect schools to make a claim against this funding if they are anticipating that they will be able to add to their reserves in the 2020 to 2021 financial year.

Expectations of schools

Schools will continue to receive their budgets for the coming year as usual, regardless of any periods of partial or complete closure, and this will ensure they are able to continue to pay for staff and meet their other regular financial commitments, while delivering the provision required during this unprecedented period.

Expectations of the local authority.

The local authority will support schools to ensure the DfE School Funding Guidance is enacted, eligible costs are recovered from the DfE and ensure schools are charged based on previous patterns of demand, to avoid financial difficulties for service providers.

Names and contact details

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