

## 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:-

	<b>Named Officer</b>	<b>Date</b>
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.