

## REPORT FOR SCHOOLS FORUM

1.	Date of meeting:	23 <sup>rd</sup> September 2022
2.	Title:	Update on High Needs Block (HNB) Operational Guidance 2023/24
3.	Directorate:	Finance and Customer Services

### 1. PURPOSE OF REPORT

- 1.1 This report builds upon previous reports to Schools Forum setting out the main changes to the High Needs Operational Guidance and proposes recommendations to ensure compliance and financial sustainability

### 2. RECOMMENDATION(S)

- 2.1 That Schools Forum note the changes to the 2023/24 High Needs Operational Guidance
- 2.2 That Schools Forum note the 3% Special Schools Minimum Funding Guarantee change and how Notional SEN budgets are calculated and when it might be appropriate to seek additional resources.

### 3. BACKGROUND INFORMATION & CONTEXT

- 3.1 The minimum funding guarantee (MFG) protection for maintained special schools and special academies in 2023 to 2024 is set by a condition of grant that applies to local authorities' DSG. The ESFA recognises the current schools' cost pressures and has set a 3% MFG in 2023 2024.
- 3.2 Local authorities identify for each mainstream school a notional amount to guide schools in their spending to meet the costs of additional support for the school's pupils with special educational needs. Although this is an indicative amount, it is important that it is sufficient for the reasonable additional costs that may be incurred by schools. The operational guidance will help schools understand how the amount has been calculated and when it might be appropriate to seek additional resources.

## 4 CHANGES TO HIGH NEEDS 2023/24 OPERATIONAL GUIDANCE

### Special Schools Minimum Funding Guarantee

- 4.1 Special schools 2023 to 2024 minimum funding guarantee (MFG) – for 2023 to 2024 this will be 3% over 2 years, based on a like-for-like comparison with a special school’s overall budget in 2021 to 2022. This takes into account the additional high needs funding that local authorities are receiving in 2022 to 2023 and 2023 to 2024, some of which is intended to help with the additional costs that schools are facing.

### Notional SEN Budget

- 4.2 Mainstream maintained schools and academies (“schools”) are notified each year of a clearly identified but notional budget, within their overall budget allocation, towards the costs of fulfilling their duty to use their ‘best endeavours’ to secure that special educational provision for their pupils with SEN. Using funds from the schools block of the dedicated schools grant (DSG), local authorities are responsible for calculating the amount of this notional budget using their local mainstream schools funding formula factors.

The requirement to identify this budget for their schools is set out in regulation 11(3) of the [School and Early Years Finance \(England\) Regulations 2022](#) (which is similar to the equivalent regulation for previous years and which we intend will be included in the regulations for 2023 to 2024). That regulation says that “the local authority must identify within each budget share an amount calculated by reference to the requirements, factors and criteria specified in Part 3 [that is, the various elements of the local schools funding formula] which are relevant to pupils with special educational needs; such amount must be calculated using a threshold sum of £6,000 per pupil below which the school will be expected to meet the additional costs of pupils with special educational needs from its [annual] budget share

The notional SEN budget is not a budget that is separate from a school’s overall budget. It is an identified amount within a maintained school’s delegated budget share or an academy’s general annual grant. It is intended as a guide for a school’s spending decisions, and is neither a target nor a constraint on a school’s duty to use its ‘best endeavours’ to secure special provision for its pupils with SEN.

In discharging that responsibility, amongst other expectations set out in the SEND Code of Practice, mainstream schools are expected to:

- meet the costs of special educational provision for pupils identified as on SEN Support in accordance with the SEND Code of Practice; and
- contribute towards the costs of special educational provision for pupils with high needs (most of whom have education, health and care (EHC) plans),

up to the high needs cost threshold set by the regulations (currently £6,000 per pupil per annum). This cost threshold is calculated by reference to the additional costs of provision, above the costs of the basic provision for all pupils in the school. High needs top-up funding is provided above this threshold on a per-pupil basis by the local authority that commissions or agrees the placement.

It is important to note that the notional SEN budget is not intended to provide £6,000 for every pupil with SEN, as most such pupils' support will cost less than that. Nor is the notional SEN budget intended to provide a specific amount per pupil for those with lower additional support costs, even though the local authority may make reasonable assumptions about what those costs might be for the purpose of ensuring that their schools' notional SEN budget calculation is realistic.

In making assumptions about costs, it is important that local authorities are transparent in their assessment of what provision their mainstream schools should make as part of the local offer of provision for children with SEN and those who are disabled (SEND). They should identify the resources necessary for schools to deliver both an inclusive environment for their pupils with SEND and any more specialist support that is needed. Local authorities must set out in their SEND Local Offer information about the arrangements the authority has for funding children and young people with SEN, including any agreements about how schools will use any budget that has been delegated to them by the local authority. This statement is relevant to decisions that the local authority makes as to whether it is necessary to issue an EHC plan.

All schools are expected to make reasonable adjustments for pupils with disabilities, in accordance with their duties under the Equality Act 2010, whether or not they have SEN. Where a reasonable adjustment is special educational provision, the revenue cost of that adjustment may be met from the school's SEN budget.

Schools have a duty to designate a teacher to be the SEN co-ordinator (SENCo). THE ESFA would expect the SENCo to be aware of their school's notional SEN budget and to be actively engaged with the senior leadership of the school in deciding what to spend on SEN support and provision.

### **Calculating the notional SEN budget**

- 4.3 As the next step in the movement towards a direct schools national funding formula (NFF), in 2023 to 2024 local authorities will only be allowed to use NFF factors in their local funding formulae and must use all NFF factors, except any locally determined premises factors. Local authorities will also be required to move their local formulae factors 10% closer to the NFF values, compared to where they were in 2022 to 2023, unless they are already mirroring the NFF. This may mean that local authorities need to review how their schools' notional SEN budgets are calculated. There is currently no national approach to the calculation of schools' notional budget for pupils with SEN through the

NFF. Local authorities, working with their schools, should therefore continue to use the local formula factor values in accordance with the regulations.

Most local authorities calculate their schools' notional SEN budget using a combination of funding from the basic entitlement factor, the deprivation factors, and the low prior attainment factors in the local funding formula. Depending on how the local formula is constructed and the overall weighting of the different formula factors, it is expected that the calculation of the notional SEN budget includes:

- a small part of the basic entitlement funding; **5%**
- a larger part of deprivation funding, reflecting the higher prevalence of lower-level SEN amongst disadvantaged pupils **50%**, and
- the majority or whole of the low prior attainment factor funding, as this is the best proxy we currently have for pupils with low-cost, high-incidence SEN **100%**

Rotherham calculations are %'s shown above.

Other elements of the funding formula may also be used – for example to reflect the prevalence of SEN amongst particular groups of pupils such as those who frequently move between schools, as captured by the mobility factor. A proportion of the lump sum could reflect any fixed costs of making SEN provision that would apply to all local schools or diseconomies of scale relevant to small schools. In local authorities with a large number of schools that receive a significant element of their funding through the minimum funding guarantee (MFG) element of the local formula, it may be appropriate to include a proportion of this funding in the notional SEN budget calculation. This element should be kept under regular review, however, as this element of funding usually reduces over time, but could increase in some areas as local authorities move their local formula closer to the national funding formula.

Local authorities should decide, following discussions and consultation with schools, including in the local schools forum, how big the notional SEN budget should be. Nevertheless, comparisons with other local authorities' calculations may be helpful. Local formulae data for 2022 to 2023 can be found at: [Schools block funding formulae 2022 to 2023: analysis of local authorities' schools block funding formulae](#).

### **Targeted funding to supplement the notional SEN budget**

- 4.4 A formulaic calculation of schools' notional SEN budgets, based on indicators of need used in the formula, is unlikely to be a precise match for the costs of support provided by teachers and other professionals for the pupils they identify as having SEN.

Any significant mismatch may be an indication that a school's approach to identifying pupils' SEN differs markedly from other schools' practice. In some schools pupils not identified as having SEN would be so identified elsewhere.

Other schools would too readily identify pupils as having SEN when their needs should be met within the normal teaching and learning environment

In some cases, however, a significant mismatch between the notional SEN budget and actual costs of SEN support may be because the school has a disproportionate number of pupils with SEN in relation to its size, phase and characteristics, or has pupils with needs of a particular kind that are not captured by the formula factors used. In other cases a significant mismatch may be because a school's small size creates diseconomies of scale in making provision for pupils with SEN. The local authority can provide targeted funding from its high needs budget to schools in such exceptional circumstances. This funding would supplement the school's notional SEN budget as calculated under the local funding formula.

Local authorities should consider carefully the criteria for allocating such supplementary targeted funding; simply relying on how schools identify their pupils with SEN could lead to perverse incentives. With appropriate criteria in place, however, such funding could be particularly helpful. For example, it might enable a local school to meet the needs of more children with more complex needs instead of them being referred to a more distant special school

## **5. RECOMMENDATIONS**

- 5.1 That Schools Forum note the changes to the 2023/24 High Needs Operational Guidance.
- 5.2 That Schools Forum support the discussions and consultations with schools on how big the notional SEN budget should be.

## **6. NAMES & CONTACT DETAILS**

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