

12th January 2021

For discussion and recommendation

Additional SEN funding consultation – discussion paper

Summary

Surrey County Council currently provides discretionary additional funding to a minority of mainstream schools to assist with the costs of meeting the first £6,000 of additional support per child with an Education Health Care Plan. Between 20 November and 17 December 2020, the Council consulted on changes to these arrangements, ceasing this additional funding distributed through the formula from April 2021. The Forum is asked to consider the results of this consultation.

It is important to note that this proposal does not involve changes to individual pupil support funding, which supports costs of provision over and above the first £6,000, nor does it affect the legal requirement for a school to deliver the support specified in a pupil's Education Health and Care Plan. Essentially and importantly, the Council will continue to deliver funding to support individual children with special educational needs.

Background

The government generally expects mainstream schools to fund the first £6,000 of support specified in a child's EHCP from its core budget which it accounts for. Schools' core budgets include funding based on measures of additional educational need so that, in general, schools with higher incidence of additional need (and typically of SEN) will receive higher average funding per pupil. In Surrey this additional need funding is closely linked to national funding formula factors. However, local authorities may provide additional funding to assist a minority of schools in which funding the first £6,000 of support for every child with an EHCP might be particularly onerous. This would typically be where the number of EHCPs is high relative to the general level of need in the school.

The Department for Education (DfE) advises that local authorities which distribute funding in this way should use a "simple and transparent, consistent and fair" distribution mechanism. Surrey has a formula for this purpose which in 2020/21 distributed £1.0m to 69 schools.

The current funding formula is:

£6000 x number of EHCPs less level 2 notional SEN budget (modified for minimum funding guarantee where appropriate) less 30% of minimum per pupil level (MPPL) supplement.

Funding is allocated at the start of each year based on the previous October data.

The current distribution of funding can be summarised as follows:

The majority of schools receiving funding are primary schools. Of those primary schools receiving funding:

- 60 out of 67 schools receive funding equivalent to less than 3% of school funding, receiving on average £10,900 in total;
- 32 out of 67 schools receive funding equivalent to less than 1% of school funding receiving on average £4000 in total.

Secondary schools in receipt of funding receive less than 1% of school funding.

The Council remains keen to have a systematic approach to helping schools meet the needs of all children and especially those with special educational needs and or disabilities through developing the Early Help Offer, the Graduated Response and the Learners' SPA (L SPA). A review of banding is underway in special schools and this is being extended over the course of the next year to cover mainstream settings including specialist units and centres. This is to achieve more effective funding arrangements to meet children's needs and provide schools and settings with more flexibility and support to do so. The Council is also investing an additional £69m capital to ensure more children and young people with special educational needs can be educated in state maintained schools and closer to their homes. This will result in between 200-700 additional specialist SEN places available from Sept 2021 and between 1,100 and 1,600 over the next 3-4 years.

The LA is projected to spend £179m on high needs expenditure in 2020/21, £32m in excess of the available grant funding; funding that has been directly spent on meeting the needs of children with additional needs.

Results of the consultation

The consultation generated over 900 responses and the results are summarised below.

Q: Do you agree that there should be no "additional SEN funding" to schools (i.e. to assist with the cost of the first £6,000 per EHCP) from April 2021?

	Support ceasing additional SEN funding	Oppose ceasing additional SEN funding	% of responses in support
Total responses	64	882	6.8%
Of which school responses	45	143	23.9%
Of which schools currently in receipt of funding	3	39	7.1%

Responses came from a variety of sources: school management and governors, school staff, parents and others. Where there were multiple responses from

individual schools, only one (the headteacher's, where identifiable) was counted as a school response but all were counted separately within the overall responses.

Key objections to the proposal were:

- * that schools with high incidence of EHCPs struggled to fund the first £6,000 per EHCP and that this put support for children with SEN but without EHCPs at risk;
- * that the proposal penalised the most inclusive schools and discouraged inclusion;
- * loss of this funding could be particularly difficult for small schools;
- * that the proposal would have a significant impact on the schools affected, for a sum which was small in the context of the overall high needs block budget;
- * that if the LA had concerns about the level of surplus balances held by individual schools receiving additional funding, it should challenge those schools rather than withdraw funding from a wider range of schools;
- * that if the funding was not going to the "right" schools this was an argument for changing the distribution method, rather than withdrawing the funding.

Although outside the scope of the consultation, a number of respondents also expressed concern that the current method of additional SEN funding did not recognise the pressure which schools could face from an increase in the number of EHCPs during the year, (for which the first £6,000 still has to be found) and commented that EHCP funding had not kept up with increases in teaching assistant pay in recent years.

Q If the funding was withdrawn, would you support a process whereby schools could apply for transitional funding between April-August 2021 if they could demonstrate that the loss of additional SEN funding would have an unavoidable detrimental impact on pupils in protected groups under the Equalities Act?

Responses are summarised below. Many of those respondents who supported transitional funding emphasised that they saw it as necessary if the funding were withdrawn, but that they did not support the proposed withdrawal of funding. Others argued that they did not support transitional funding because they did not support the original proposal.

	Support proposed withdrawal and support transitional funding	Support proposed withdrawal and Oppose transitional funding	Oppose proposed withdrawal and support transitional funding	Oppose proposed withdrawal and oppose transitional funding
All	38	7	752	68
Of which schools	26	3	130	7

Note: not all respondents expressed a view on whether transitional funding should be provided.

Comments on transitional funding included:

- That if the funding was to be withdrawn it should not be withdrawn part way through the academic year;
- That a term's transitional funding would not be long enough;
- That schools should be given transitional funding automatically and should not be required to apply for it, which would add to school workloads;
- That proving detrimental impact on any children should be enough to justify transitional funding, it shouldn't be necessary to prove detriment to equality priority groups.

Recommendations for consideration

- 1) In the light of the strength of feedback from the consultation Schools Forum are asked to consider whether this discretionary funding should be withdrawn from April 2021 bearing in mind:
 - a. the local authority's option to provide additional funding to assist a minority of schools in which funding the first £6,000 of support for every child with an EHCP might be particularly onerous.
 - b. the requirement on all local authorities to adopt a "simple and transparent, consistent and fair" distribution mechanism, if distributing such additional funding;
 - c. the duty on the council to achieve a balanced HNB within the DSG including a deficit recovery plan where required,

or,
- 2) In recognition of the current difficulties being faced by schools, Schools' Forum are asked to consider whether the withdrawal of this discretionary funding should be phased over a longer period thereby ensuring schools would have time to plan for the withdrawal of the SEN additional needs funding.

and,
- 3) If the latter were to be considered the appropriate route, what advice the Schools Forum could offer on the transition arrangements.

Equalities Impact Assessment

For noting an equalities impact assessment has been carried out and its conclusion states:

“Proposals to withdraw funding do not disproportionately affect schools with high incidence of ethnic minorities or high levels of deprivation or high overall levels of SEND. However, a school level assessment must be undertaken for schools where the withdrawal of funding can be demonstrated to have an unavoidable detrimental impact on pupils in protected groups under the Equalities Act, with the possibility of a transitional plan and transitional funding.

The proposal affects funding which is allocated to schools specifically for SEND but which is not attached to specific individual pupils. Ultimately it will be up to schools to decide how to manage any reductions.”

Next steps

The final decision will be taken by the Director for Education, Lifelong Learning and Culture in consultation with the Lead Cabinet Member All Age Learning, on or before 21 January 2021.

Schools Forum is invited to discuss the outcome of the consultation and recommendations above with a view to informing the decision to be taken.