



Report to Schools Forum

Date: 30th June 2020

Title: Allocation of Top-Up Funding – Outcome of Consultation and Recommendations for Implementation

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Schools affected: All

Recommendations:

Schools Forum is asked to

- a) **Note** the outcomes of the consultation with schools on the mechanism for allocating top-up funding for pupils with Education Health and Care Plans (EHCPs), ie,
 - I. That the recommended approach of a needs led funding approach based on an adapted model for Buckinghamshire is supported.
 - II. That the model should be supported by a moderation process
 - III. That there should be a phased implementation, beginning with special schools with roll out to mainstream and further settings in future years.
- b) **Note** the proposed time lines for implementation.
- c) **Agree** the basis for calculating top-up values proposed by the Needs and Provision Group, including the application of a fringe uplift where appropriate.
- d) **Agree** the principles for transition to the new model including support for schools that would see a reduction in funding under the proposed model.
- e) **Agree** to seek an exemption from the Minimum Funding Guarantee for Special Schools in the 2021-22 financial year in order to move toward the new funding mechanism through the implementation of transitional support.

Reason for decision: to implement a needs led funding model in line with the outcomes of the consultation with schools.

Executive summary

This report updates Schools Forum on the outcomes of the consultation on the allocation of top-up funding to support pupils with Education, Health and Care Plans (EHCPs) and the implementation of a needs led funding system based on an adapted model for Buckinghamshire. This has been agreed by Cabinet Member decision on 17th June 2020.

The report outlines the proposed model including the calculation of band values and proposals for transitional support in moving towards the new funding mechanism.

The proposed funding mechanism will

- i. Bring funding in line with government guidance to ensure funding is allocated on a needs led basis;
- ii. Deliver on the Council's priorities and the Local Area SEND Strategy;
- iii. Ensure the way that top-up funding is allocated is fair, simple, consistent and transparent, and enables us to plan how we meet the increasing number of pupils with EHCPs.

1. Background

- 1.1. A report was considered by the Buckinghamshire Schools Forum in March 2019 outlining a proposed process for reviewing the mechanism for funding special schools and developing a needs led funding system for top-up funding. This report identified an initial process and timeline for the review. At the start of that process a Needs and Provision Group was established. This group consisted of senior leaders from special schools, mainstream schools and mainstream schools with ARPs as well as officers from the local authority (SEND and Finance). The timeline was amended as the Needs and Provision Group started to carry out its work and the revised timeline was reported to Schools Forum. Regular updates were also discussed at the Meeting of Special School and PRU Head Teachers and Principals plus Officers. Consultation was then further delayed due to the general election.
- 1.2. The work of the Needs and Provision Group included a review of funding systems from other local authorities to identify good practice and a methodology that could be applied to Buckinghamshire. As part of the engagement and scoping of a new model of funding, a number of pre-consultation information, engagement and modelling events were held to include consideration of potential descriptors, assessment of pupils against descriptors and the moderation of those assessments. That work led to the development of a proposal to adapt a model from another local authority to suit the needs of Buckinghamshire.
- 1.3. A consultation with education leaders across Buckinghamshire including head teachers, governors and senior leaders from our special and mainstream schools and pupil referral units was held between 13th February 2020 and 6th March 2020.

Three consultation events were held across the county during the consultation period to enable information to be shared and questions to be asked.

1.4. The consultation set out 4 options:

Option A – Do nothing and continue with the current way of allocating of top-up funding.

Option B – Move to a needs led funding approach based on an adapted model for Buckinghamshire. (Local Authority preferred option)

Option C – Move to a needs led funding approach by drawing up a new bespoke model for Buckinghamshire.

Option D – Move to a needs led funding approach by utilising an existing model from a comparator authority.

1.5. The consultation report has been made available to schools and the outcomes of the consultation are summarised below:

- a) There were 59 responses to the consultation.
- b) The majority of respondents (85%) expressed an opinion in favour of moving to a needs led funding model.
- c) The majority of respondents expressed a preference to move to a banded funding model that could be adapted to meet the needs of the children and young people within Buckinghamshire (Option B).
- d) Just over half of respondents agreed to a funding model that was focused around 4 bands of need.
- e) Almost all respondents (93%) agreed with a process of moderation.
- f) The majority of respondents agreed to a phased transition to the new funding model.
- g) Overall the majority of comments regarding the consultation were positive about change to a new model and felt that the review of funding was overdue.

1.6. The proposal for an adapted model that was included in the consultation was based on 5 primary SEND needs (aligned with the four broader areas in the SEND Code of Practice, 2015):

- a) Speech Language & Communication / ASC
- b) Cognition and Learning
- c) Social, Emotional & Mental Health
- d) Sensory
- e) Physical and/or Medical

1.7. In the model initially proposed, pupils would be assessed as having a primary need from one of the five areas of SEND outlined above that fall into one of four bands.

The Needs and Provision Group considered the outcome of the consultation, including the written comments, on 11th March. Taking into account the feedback from the consultation responses, it was recommended by the group that the model be based on 5 bands of need with an additional “exceptional” band to recognise the most complex needs that may be met within Buckinghamshire schools.

- 1.8. Further work has now been undertaken to develop the process for banding and moderation. Based on the work with special schools to date it is proposed that the implementation should be from the 2021-22 financial year. This means April 2021 for maintained special schools and September 2021 for academies.

2. The Proposed Funding Model

2.1. A key part of the work of the Needs and Provision Group has been to consider the potential financial values that should be ascribed to the individual bands. In modelling financial values the basis of the initial work has been the support costs, based on additional learning support staff, required for each band. In all cases it is proposed that teaching staff would be part of the base funding for a setting (special or mainstream) and the top-up is to reflect additional support on top of teaching costs. Average group sizes have been proposed by the Needs and Provision Group and triangulated with indicative group sizes referenced in the DfE’s BB104 guidance: *Area Guidance for SEND and Alternative Provision*.

2.2. The principles for developing top-up values are recommended as follows:

- 1) There will be 5 Bands for use across mainstream to special schools
- 2) A further “exceptional” band is proposed to recognise the most complex needs that may be met within Buckinghamshire schools reflecting provision in which pupils may need 3 to 1 support at all times
- 3) Average group sizes and numbers of adults (excluding teachers) working with pupils will be used as a basis for the calculation of top-up values.
- 4) That a single band value should be calculated for each of the bands set at a level determined to meet the needs of the children in that band rather than variable values according to the differing primary SEND needs (para 1.6 above).

- 2.3. It is further proposed that a fringe uplift be applied to special school top-ups for schools in the relevant part of the county. This uplift is proposed as 1.75% in line with the uplift applied to mainstream schools within the National Funding Formula (NFF).
- 2.4. Final financial values for the bands will also need to take into account the affordability of the model following the banding and moderation process.

3. Affordability and Transition

- 3.1. The implementation of the new model is expected to result in some schools gaining funding and some schools receiving a reduction in funding in order to reflect the needs of the pupils in each school. As a result, there will need to be a transition to the new model.
- 3.2. This means it will be necessary to seek permission from the Secretary of State to be exempted from the Special Schools Minimum Funding Guarantee (MFG), so that we can manage the appropriate changes in funding. This is provided for within the High Needs Operational Guidance 2020-21 and can be applied in cases where local authorities are proposing to change their banding systems. In considering any application for exemption from the MFG, the DfE will need to see that there is agreement from Schools Forum. A transition process and level of support therefore needs to be agreed. The following principles are key to an equitable model:
 - 1) That gaining schools need to move as quickly as possible to the new model to ensure they are appropriately funded for the needs of pupils in the school;
 - 2) That schools facing a reduction in funding will have a longer transition period in order to manage reductions, with less disruption to staffing and provision.
- 3.3. This will need to be modelled and determined in consultation with schools based on the final banding. The final band values and transitional arrangements will be proposed to Schools Forum as part of the budget setting process for 2021-22.

4. Legal and financial implications

- 4.1. The proposals in this report relate to the implementation of a revised methodology for the allocation of top-up funding to support pupils with Education Health and Care Plans. Funding to support pupils with EHCPs is allocated from the High Needs Block within the Dedicated Schools Grant (DSG). Band values will be developed based on the principles agreed by Schools Forum and the final recommended values will take into account the overall funding available.

4.2. As outlined in the body to the report it will be necessary to implement a transitional arrangement to support schools in managing changes to their funding.

4.3. Legal Implications

The Local Authorities legal responsibilities are set out in Part 3 of the Children and Families Act 2014. In particular:

Section 37 of the Children and Families Act 2014 provides:

(1) Where, in the light of an EHC needs assessment, it is necessary for special educational provision to be made for a child or young person in accordance with an EHC plan—

(a) the local authority must secure that an EHC plan is prepared for the child or young person, and

(b) once an EHC plan has been prepared, it must maintain the plan.

Section 42 of the Children and Families Act 2014 provides, as relevant:-

(2) The local authority must secure the specified special educational provision for the child or young person.

(6) 'Specified', in relation to an EHC plan, means specified in the plan.

The Council fully expects that the level of funding at each band will continue to meet the needs specified in EHCPs.

S 175 of the Education Act 2002 provides that a local authority shall make arrangements for ensuring that their education functions are exercised with a view to safeguarding and promoting the welfare of children. In doing so, authorities have to have regard to the Secretary of State's guidance. The proposed model for allocation of top up funding is consistent with the duty under s 175 of the Education Act 2002 as it is in line with the High Needs Operational Guidance 2020-21 and the aim of the model is to ensure fairer distribution of resources for the education of children with high needs, within the context of all children's EHCPs being met.

S149 of the Equality Act requires public authorities in the exercise of their functions to have due regard to the need to

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

An Equalities Impact Assessment (EIA) has been undertaken in relation to the proposed model for allocation of top up funding. The EIA concludes that as the project is focused on developing a new funding model for schools/settings, any impact on service users is minimal, and the transition arrangements proposed will minimise disruption to any impacted school. These arrangements would ensure children and young people are not disadvantaged. The policy aims to provide a fairer, more transparent and equitable approach to funding allocation, based on need so that children presenting with similar needs are funded at the same rate.

5. Next steps and review

5.1. Next steps include:

- a) Development of the moderation process; this will involve further work with our special schools to assess pupils against the bands, and achieve consistency across Buckinghamshire's specialist provision. This will go alongside work looking at the continuum of specialist provision in Buckinghamshire, to ensure this is clear and transparent, and subsequent funding allocation matches the needs and provision required to meet the needs of children placed here.
- b) Calculation of band values and modelling of the phased transition to the new funding allocation method. This will be brought back to Schools Forum as part of the budget setting process for 2020-21.
- c) Consideration of implementation within other provision; the Needs and Provision Group will plan the next phase of implementation of a banded model, working with Additionally Resourced Provisions and SEN Units within mainstream schools, as well as Pupil Referral Units. This will follow a similar process of informing, engaging and modelling events for those affected settings, moving towards an assessment and moderation process, prior to implementation.