

Item:

**Children and Young People's
Overview and Scrutiny
Committee**

26 September 2019



**Consultation on High Needs
Block (HNB) funding for
Special Educational Needs
and Disabilities (SEND) and
Inclusion Support**

**Report of John Pearce, Corporate Director of Children and Young
People's Services**

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 The report outlines the approach to, and scope of a public consultation that is underway on proposals to help reduce spending pressures on the High Needs Block (HNB) funding for Special Educational Needs and Disabilities (SEND) and Inclusion Support.
- 2 The Council is seeking views on a series of proposals for reviewing areas of service provision, with the aim of reducing spending pressures and increasing value for money.
- 3 Following Cabinet approval on 10 July 2019, the consultation was launched on 17 July 2019 and will close on 17 October 2019.

Executive summary

- 4 The High Needs Block (HNB) of the Designated Schools Grant (DSG) provides funding for Special Education Needs and Disability (SEND) and inclusion services for children, young people and young adults. Over recent years, there have been increasing spending demands on the HNB. The Council are now spending 15% more than the funding that is available as a result of: ongoing austerity; implementation of the SEND Reforms (2014); and the changing customer needs, which are becoming more complex.

- 5 Working with stakeholders, we are reviewing all areas of spending to reduce HNB expenditure where feasible, while also recognising the specific needs of individual children and young people, and the overall volume of demand for our services.
- 6 Key areas of service provision are identified for review and the Council are currently consulting with customers and stakeholders on the associated proposals, to ensure that their views inform decision making.
- 7 A further report is to be presented to Cabinet in autumn 2019, outlining the consultation findings; outcomes of further work; recommendations for change and improvement; and an associated funding strategy for 2020/21.

Recommendations

- 8 It is recommended that Members of CYPS Overview and Scrutiny Committee:
 - i) Consider the contents of this report and the consultation proposals available on the council's website at:
<http://www.durham.gov.uk/consultation>; and
 - ii) Give views on the consultation programme.

Background

The Current Challenge

- 9 Funding for SEND and Inclusion services is currently provided from the government through the High Needs Block (HNB) of the Dedicated Schools Grant. At present, the Council is spending around 15% more on these services than it receives and is supporting £5.6 million of expected HNB overspend in 2019/20 from the Budget Support Reserve. This situation cannot be sustained.
- 10 The spending pressures on the HNB budget derive from a combination of:
 - An extended period of ongoing austerity;
 - Government funding not keeping pace with demographic changes and inflationary demands;

- Implementation of the SEND Reforms 2014, which have extended the age range of young people that the Council are required support through the HNB up to the age of 25 years; and
- The changing and increasing complexity of needs of our children, young people and young adults.

11 This is also the case in many other local authorities.

12 The table below was included in the report presented to Cabinet on 10 July 2019 and illustrates how overall spending has increased significantly over the last four financial years and included an initial forecast position for this financial year:

Financial Year	HNB for Durham [£'000]	ESFA deduction* [£'000]	Net sum received by DCC [£'000]	Actual or Forecast Spend by DCC [£'000]	(Under) / over spend [£'000]
Actual					
2015/16	46,578	-3,093	43,485	40,685	(2,800)
2016/17	47,325	-2,924	44,391	45,491	1,100
2017/18	48,936	-4,379	44,557	49,209	4,652
2018/19	51,130	-4,400	46,730	54,141	7,411
Initial Forecast					
2019/20	52,707	-3,906	48,801	55,500	6,699

* ESFA deduction relates to payments made directly to some institutions, such as academies and FE colleges, directly by ESFA.

13 In Durham, a SEND and Inclusion Resources Board (SIRB) was established within the Council earlier in the year to address these cumulative issues and spending pressures. It brings together colleagues from the council's Education Services, SEND and Inclusion, Commissioning and Finance and gives cross council oversight of resources for SEND and Inclusion, including HNB spending and related council budgets.

14 Under the direction of the SIRB and in consultation with the Durham Schools Forum, we have been working with wider stakeholders, to identify changes that will improve the lives of children with additional needs, in line with the Durham SEND Strategy, while seeking to use HNB funding more effectively.

15 The work includes reviewing all areas of spending to reduce expenditure where possible, while ensuring that we continue to provide the right support, at the right time, in the right place for children and young people across the county, who have higher needs.

- 16 It is envisaged that reductions in spending and service improvement will be achieved by focussing on efficiencies, securing increased value for money, improved clarity and consistency around service provision that better matches changing customer demands, and emphasising early intervention and partnership working.
- 17 The Council are now consulting with stakeholders and customers to include children, young people, parents and carers on the proposals, to ensure that their views inform the actions to be taken, in respect of the key areas for review, that are outlined below.

Consultation Approach and Proposals

- 18 Following the report to Cabinet in July, a public consultation on the suggestions for change and improvements to service provision was launched on 17 July 2019 and will close on 17 October 2019.
- 19 Section 19 of the Children and Families Act 2014 highlights that local authorities must ensure that children, young people, parents and carers are involved in decisions about local provision. The SEND code of practice (January 2015) sets out that local authorities, CCGs and NHS England need to have effective ways of harnessing the views of their local communities so that decisions on services for those with SEN and disabilities are shaped by users' experiences, ambitions and expectations. The work which has been undertaken to date, together with the consultation over a three-month period, ensures that the Council has engaged a wide range of stakeholders.
- 20 The consultation builds on previous consultation and engagement activities, including discussions with schools, and representatives from families and young people. This includes the High Needs Review (Dec 2017), the Social Communication and Interaction Review (2018) and discussions with County Durham schools throughout 2018/2019 including Schools Forum, SEND and Inclusion Schools Forum Reference Group, Communities of Learning and Behaviour Partnership Panels, and Leadership Teams of Special Schools (March – April 2019).
- 21 The Consultation Document (available on the council's website) sets out the changes that are proposed to help improve services and use funding more effectively, by meeting the following commitments:
- To support an education system where inclusion of children and young people in their local schools is the norm, giving parents and carers confidence that their children's needs will be understood and met.
 - To offer a range of specialist learning provisions for some young people who have a high level of needs.

- To make every effort to use the all the resources available to young people effectively and efficiently.

22 The Council's proposed approach to the changes is also defined within the consultation as:

- Transforming the ways in which we work, whilst ensuring the best outcomes for children and young people using the services.
- Reviewing all areas of spending to identify ways to improve efficiency, promote early support, working in partnership, and change what we offer where possible, whilst also recognising the: specific needs of individual children and young people; the overall volume of young people with SEND needs; and the changing pattern of demand on different service areas.

23 Overall, the proposals:

- suggest a new approach to meeting needs more effectively;
- suggest how the Council might be able to support children with very high needs, with less reliance on placements a long way from home;
- look at how the Council might make specialist support available to children in mainstream schools who would benefit;
- outline new ways of meeting the needs of children who are excluded or for whom mainstream school is not the best option; and
- suggest how the Council's approach to Post 16 education might help young people progress towards employment and independent living.

24 The report to the Cabinet in July 2019 outlined the following areas for review, chosen in large part due to their impact on spend from the HNB fund:

a) Centrally Managed Services

Centrally Managed Services¹ provided by Durham County Council include functions such as: support to nursery pupils and children with sensory and learning difficulties; services provided by the

¹ Information on the full range of services can be viewed in the: Support and Services for Schools and Settings 2019-20.pdf directory at:
https://search3.openobjects.com/mediamanager/durham/fsd/files/support_and_services_for_schools_and_settings_2019-20_2.pdf

Equalities and Intervention team; and SEND management and support posts. It is proposed that the Council continue to provide centrally managed services in the future to ensure a consistent approach and quality of service and carry out extensive reviews to ensure value for money and a reduction in costs where possible.

b) Special Schools.

Ten special schools in Durham provide specialist teaching and support for children and young people with the most complex special education needs. Funding from the HNB is provided for a set number of places in each school. Whilst there is a broad range of specialist provision in the county, there are currently 37 vacant places in County Durham. In contrast, places are being sought in the private independent sector (sometimes out of our county), which can often be significantly higher than a place in our special schools and incur extra transport costs. This is placing a higher cost demand on the funding. In 2018/19 we spent £24.2 million in this area and we forecast we will spend £24.4 million this year. Based upon the above it is proposed that we extend the range of specialist places offered in County Durham, so children can access services locally rather than attend out of area, high cost independent placements.

c) Joint commissioning of services – integrated therapies

Views are sought on the following proposals for joint commissioning:

- Bringing together the resources from education, health and care to improve local access to speech and language therapy, physiotherapy and occupational therapy for children and young people.
- Developing new ways of offering therapies locally which meet the aspirations and preferences of families within the available resources.
- Making the best use of therapists to offer prompt assessments, delivery of appropriate therapy in local settings and promote the confidence of families.

d) Joint Commissioning of Services – equipment, auxiliary aids and adaptations

Current arrangements for providing these is complex and regularly requires input from colleagues in education, health and education settings. A strategic review has taken place and it is now planned to work on a clearer and more consistent approach with updated

guidance and streamlined processes. This is expected to lead to better, swifter support and increased value for money which collectively will support better use of HNB funding. Through the consultation we are seeking views on two proposals:

- Assistance requested by schools from the HNB funding only be used to purchase items that are deemed to be specialist (not normally available in a school or setting).
- Review the existing guidance so all schools apply a consistent approach

e) Top up Funding support

Top up Funding is the provision of HNB funding to schools when provision to meet an individual child or young person's SEND needs would cost more than the school's Core Funding budget. At present every school decides on the amount of extra funding they need for each child. This has resulted in differences in the amount of support a young person gets depending on how the school completes an application. It is proposed that in future we apply a 'banding system' to Top up Funding to support schools to ensure SEND needs are consistently and more appropriately met, in a timely manner.

f) Targeted funding support

When schools have a high number of students with Top up Funding, they are still required to provide the core funding for each pupil from the school's budget. This can mean that schools with a high number of students with Top up Funding can find that they do not have enough core funding. Therefore, Targeted Support funding is provided to help schools increase their core funding. The amount of Targeted Support funding that a school receives is currently determined by a formula and does not require schools to provide evidence of whether they need more money or what the additional money will be used for. We are proposing to provide Targeted Support Funding when a School applies for help. To receive the funding, the school's application will have to meet a set of conditions that we will set in consultation with schools.

g) Post 16 funding support

This provides an element of funding to the post 16 sector to support the education costs of young people over 16 with an Educational Health Care Plan (EHCP). This has created a new and growing demand on the HNB in recent years since the SEND reforms were introduced. A review of all applications in 2018/19 took place and from this a fair pricing model for support was developed and discussed with providers. It is proposed to roll out the fair pricing

policy and application criteria to all providers of Post 16 provision in County Durham.

h) Financial support provided through local partnerships of schools

In Durham, fifteen Communities of Learning partnerships along with four Secondary Behaviour Partnerships and a Primary Behaviour Partnership receive HNB funds to support schools locally in providing the right support to children and young people with SEND and Inclusion needs. It is proposed that we continue to support schools and key providers to work in local partnerships to identify and meet the needs of children and young people with SEND and other vulnerable learners in their area. It is also proposed to only release funds on receipt of a clear business plan and for partnerships to report back on the impact of the funding for children and young people.

i) Pupil referral unit and alternative provision

The Woodlands Pupil Referral Unit is the County Council's provision for permanently excluded pupils and those identified as close to permanent exclusion. The aim of The Woodlands is to deliver a tailored academic, social, emotional and therapeutic programme to support young people to move on successfully to their next steps in education, employment or training. The Woodlands has an on-site capacity of 75 but with more than 200 permanently excluded pupils on roll. Over 100 young people access off-site alternative provision supported by this fund. This has caused increasing budget pressures, which is replicated nationally.

In May 2019, a national review of permanent exclusion, alternative and Pupil Referral Unit provision found that whilst permanent exclusion is sometimes appropriate, it should be a last resort. The review calls on local authorities, schools, and other agencies to establish effective partnership working to intervene earlier to avoid exclusion. We are seeking views through the consultation on reducing the numbers of children and young people on the roll of The Woodlands Pupil Referral Unit. The proposals include: providing more resources to the Behaviour Panels so they can buy additional early interventions and therapeutic support and increase the number of young people back into school; and increasing the number of young people, particularly in years 7 and 8, to reintegrate quickly into mainstream or specialist schools from The Woodlands (PRU).

Consultation Plan

25 A comprehensive schedule of information, events, briefings, workshops and other activities is underway to consult on the above proposals, with a wide range of customers and stakeholders to include: Schools Forum Reference Group (SFRG); County Durham Schools Forum; Durham Association of Primary Head Teachers (DAPH); Durham Association of Secondary Head Teachers (DASH); Heads from Special Schools, Education and SEND / inclusion staff; schools; colleges; elected members; parents; children and young people; and partner organisations. The plan is summarised in Table 1 below.

Table 1. Outline Consultation Plan

Timescale	Consultation Activity
17 July 2019 (Consultation Launch)	<ul style="list-style-type: none"> • Website consultation page launched including survey, video and Consultation Document (with Easy Read available and added) • Notifications to key stakeholders: <ul style="list-style-type: none"> • Schools and colleges • Parents/carers • Voluntary Community Sector organisations • DCC Members & CYPS staff • Parent and carer support groups • Alternative providers • Independent service providers • Pupil Referral Unit • School Governors • Area Action Partnerships • Schools Forum Reference Group • SENDCo staff • Clinical Commissioning Groups • SEND strategic partnership, Integrated Steering Group for Children • Social media posts including video by Head of Service • Notice placed on Schools Extranet • Durham Voice Newsletter article
Aug 2019	<ul style="list-style-type: none"> • Updates to CYPS management teams, CMT Transformation Group, AHS Management Team
Sept – Oct 2019	<ul style="list-style-type: none"> • Reminders about consultation (following school holidays) – letters to schools, notice on Extranet • Meetings of professionals representing schools, special schools, alternative education providers, post-16 learning providers and independent providers • Updates to: <ul style="list-style-type: none"> • SEND Strategic Partnership • Durham Association of Primary Headteachers • Durham Association of Secondary Headteachers • Headteacher Briefings • Integrated Steering Group for Children • CMT Transformation Group • CYPS Overview and Scrutiny Committee • Schools Forum Reference Group • Durham Schools Forum • Chairs of Communities of Learning Meeting • Chairs of Behaviour Panels Meeting • Focus groups for special interest groups which represent children and young people, as well as parents and carers: <ul style="list-style-type: none"> • Little Treasures • Rollercoaster Group • eXtreme Group • Together 21 • SENDCO Networks • Making Changes Together • Buzz magazine article • Posters in local GP surgeries, community centres
17 Oct 2019	<ul style="list-style-type: none"> • Close of Consultation
13 Nov 2019	<ul style="list-style-type: none"> • Presentation of findings and recommendations to Cabinet

26 Further information about the consultation and access to an online survey is available on the Council's website at:

<http://www.durham.gov.uk/consultation>

27 The website sets out the background to the consultation, what we are consulting on, and how we are doing this, through:

- An introduction to the consultation supported by an introductory video
- The Consultation Document – this presents the: rationale and background to the proposals; the legal context to the consultation, to include the council's responsibilities under the Children and Families Act 2014 and SEND Code of Practice; and explains how local authorities are funded to support SEND and Inclusion services. The work undertaken with partners, providers and stakeholders leading up to the consultation is also outlined, along with the council's proposed approach, commitments to, and proposals for change.
- A consultation survey form on 'Support for SEND services and young people who need support to stay in education' – this questionnaire can be completed by any individual to feedback their views on the proposals and provides the opportunity for parents, carers and other stakeholders to explain how they perceive the proposals could impact on them / their children / their services users.

28 During the initial six weeks of the consultation, 1,342 people have viewed the consultation web page on the Council's website, and 65 people have responded to the survey. The video has been viewed 102 times from the web page.

29 The consultation has also been promoted via Facebook, with the post reaching over 22,400 people since the consultation launch. During the initial six weeks the post had received 236 reactions, comments and shares and the video has been watched over 9000 times, via Facebook.

Next Steps

30 As outlined above, further consultation activities are being conducted up to the end of the consultation on 17 October 2019. Further work on the proposals is taking place, informed by the findings of the consultation and further equality impact analysis work. A report is scheduled to be presented to Cabinet on 13 November 2019, setting out the updated financial forecast position, summary of the consultation findings, recommendations regarding the proposed changes, and the associated strategy in respect of funding for 2020/21.

- 31 Further options will also be considered for reducing the overspend in consultation with Durham Schools Forum to include a transfer of resources from the Designated Schools Grant to the HNB to enable the continuation of several areas of support for young people with SEND.
- 32 Consultation about the proposals and options for funding high needs is due to be discussed further with the Durham Schools Forum at meetings in September, October and November 2019. This will also aim to consider the latest known information about the Government's spending plans for schools and high needs pupils.
- 33 Further options will also be considered for reducing the overspend in consultation with Durham Schools Forum to include a transfer of resources from the Designated Schools Grant to the HNB to enable the continuation of several areas of support for young people with SEND.

Conclusion

- 34 Durham County Council wants to do the best it can for children, young people and young adults with SEND and those at risk of exclusion from education. This means trying to address areas of pressure from the HNB without significantly impacting on support to individual children and young people and minimising the impact on schools' budgets and council resources which are already under pressure.
- 35 Key areas of initial focus are outlined in this report and we are now conducting wider stakeholder engagement over a three-month period between 17 July and 17 October 2019.
- 36 Alongside this, further work will take place on forecasting future spend from the HNB and discussions with Schools Forum are planned for the autumn regarding the position of schools and the need to consider further options including a transfer of resources from the DSG to enable the continuation of several areas of support for young people with SEND.

Background papers

- Cabinet Report on High Need Block Funding for SEND and Inclusion Support, 10 July 2019
- Consultation on High Need Block Funding for SEND and Inclusion Support, 17 July – 17 October 2019
<http://www.durham.gov.uk/consultation>

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Appendix 1: Implications

Legal Implications

Sections 45-53 of the School Standards and Framework Act 1998 sets out the funding framework governing schools finance.

The Children and Families Act 2014 covers the SEND reforms and is accompanied by statutory guidance for organisations to follow through the SEND code of practice: 0 to 25 years (2015).

The overarching legal implication within the report is the Equality Act 2010 with respect to the Public Sector Equality Duty (PSED). Section 149 of the Act details the requirement when taking decisions to have due regard to the need to advance equality of opportunity for people with protected characteristics, foster good relations between such groups and eliminate unlawful discrimination. It is necessary the impact on those groups is fully analysed as part of the review of the consultation responses.

Finance

The report highlights the significant overspend position in the HNB. The outturn position for 2018/19 was a £7.4 million overspend in the HNB and the current estimate is an over spend of £6.7 million for 2019/20, with £5.6 million of this supported by the Council's general fund.

The report sets out several proposed actions as part of a programme of work through an HNB sustainability plan which seek to support young people with SEND within the resources available. Alongside this, the Council and other local authorities are continuing to lobby the Government for additional resources.

Consultation

Section 19 of the Children and Families Act 2014 makes clear that local authorities must ensure that children, young people, parents and carers are involved in decisions about local provision. The report sets out proposals to consult with early year settings, schools, special schools and colleges along with other stakeholders including children and families over a three-month period from 17 July to 17 October 2019.

Equality and Diversity / Public Sector Equality Duty

An equality impact assessment (screening stage) has been undertaken.

At this stage, current areas of work should not necessarily negatively impact children and young people with SEND and their families/carers but will ease

funding pressures and contribute towards longer term sustainability of high needs funding. The HNB sustainability plan aims to create more inclusive and targeted support to address SEND and this supports our public sector equality duty. Further equality analysis will be undertaken as the programme progresses to ensure decision makers are fully informed of any potential equality impact.

Human Rights

None

Crime and Disorder

None

Staffing

There may be changes required in staffing based on the proposals outlined in the report.

Accommodation

None

Risk

The programme of work being overseen by the SEND and Inclusion Resources Board is being progressed as part of a programme management approach and includes developing a risk register which is frequently updated. Key risks are summarised in the Cabinet Report, 10 July 2019. Careful consideration of risks and possible unintended consequences is taking place regarding each of the areas of work and this will be further informed from the consultation.

Procurement

Commissioning and procurement implications are being considered for each of the proposals in the HNB sustainability plan.