

High needs funding reform and a schools national funding formula

An initial response from the Special Educational Consortium

This initial response from the Special Educational Consortium is based on discussions at the Steering Group meeting in March 2016 and additional written submissions from members. SEC may seek to build on this response and submit further evidence if the need arises.

Undermining provision in one area to improve the funding levels in another is not an acceptable approach to 'fairer' funding of SEN

SEC does not support the proposals to redistribute the high needs block of funding as set out in the Department for Education's consultation document. Any changes to the national formula should be used to level up the funding of lower-funded local authorities, not to redistribute the existing spend.

SEC agrees that historic spend is not necessarily a 'fair' way of distributing funding and that a national funding formula could be desirable if the right factors can be identified. However, SEC does not agree that this a sufficient argument for undermining provision in one area to improve it another. Furthermore, we believe that the process of redistribution, even if staged over five years, could have a hugely detrimental impact on children, young people and their families in authorities that will face significant cuts in funding.

Beyond an assertion in the consultation document that some authorities "might be spending more than is needed", no supporting evidence is provided to suggest higher funded authorities are over-spending on children and young people with SEN. Whilst, arguably, other authorities do not receive sufficient high needs funding to meet all the needs of children and young people in their area, this is an argument for levelling up high needs funding in lower-funded areas, not redistributing the existing pot.

The consultation document provides no analysis of why a local authority might historically have spent more than others, nor what the likely impact of the proposals might be on existing provision. Without a firm evidence base or an understanding of the likely impact of these proposals, the risks

of undermining outcomes for children and young people with SEN are far too great for SEC to support this policy.

A wider concern for SEC is that local authority responsibilities for children and young people have been significantly extended by the Children and Families Act 2014. There has been an increased age-range (a birth to 25 system), new responsibilities for all children and young people with SEN, and a more time-consuming assessment process, but without any injection of funding into the high needs block. Levelling up the allocation of high needs funding is a way of reflecting these additional long-term responsibilities and, at the same time, could support the ambition to move towards a fairer allocation.

The proposals to redistribute high needs funding based on a national funding formula need to better reflect the parallel proposals to redistribute schools block funding

In addition to the consultation on high needs funding, the Department is simultaneously proposing to create a national funding formula for schools. This will mean a significant redistribution of the schools block taking place at the same time as the redistribution of the high needs block. We believe that these proposals cannot be seen in isolation from each other, and that more consideration needs to be given to the implications of movements in both the schools and the high needs block. For example, some local authorities may be gaining high needs funding while the funding for schools in their area is reducing. Others will be losing high needs funding while the schools in their area are seeing an increase in their budgets. Far more information needs to be provided about the analysis of different scenarios that might be created by these proposals, and what the impact might be.

The separation of high needs funding from mainstream school funding creates significant risks

The Department is proposing that the high needs block will be retained by local authorities and that the schools block will be passed in its entirety directly to schools. This means the scope for local authorities and schools to move funding from pupils in mainstream schools to meet the costs of pupils with high needs, or vice versa, will in effect be removed.

Currently, decisions to move funding between the schools block and the high needs block are taken by head teachers and local authorities via the Schools Forum. There is a recognition that the balance of funding may need to shift one way or another between the blocks (for example, money may need to be transferred to the high needs block from the schools block if there is a sudden rise in permanent exclusions). This local flexibility will be lost under the new proposals.

SEC perceives two particular risks with this proposal and we would welcome the opportunity to discuss them further with the Department:

- 1) The existing arrangements mean that schools and high needs funding come out of a single overall pot. This creates a disincentive to over identify children and young people because any overspend in the high needs block will need to be found from within the schools block. By effectively ring fencing the schools block, this disincentive is removed and we may see significant inflationary pressure on the high needs block.
- 2) Local authorities have absolute legal duties to both provide a suitable education for children who are not otherwise in school and for children and young people whose special educational needs cannot be met from the resources within mainstream settings. This means that demands on the high needs block can vary significantly due to factors beyond a local authority's control (for example, if a number of children with very complex needs suddenly move to an area). We are concerned for children and young people who are the responsibility of a local authority that has run out of funding in the high needs block, possibly for perfectly legitimate reasons. Local authorities will have very few options in these circumstances and may find themselves with no choice but to act unlawfully.

Introducing the proposals at this time could undermine implementation of the Children and Families Act 2014

In addition to the increased responsibilities of local authorities, mentioned above, the Children and Families Act introduced wider changes to the legal framework for special educational needs. Many aspects of the reforms are still developing: local authorities and clinical commissioning groups are still in the crucial stages of developing joint commissioning arrangements and integrated personal budgets; many of the implications of the legislation have not been fully tested in the courts and it is likely that judicial decisions may have significant new cost implications for local authorities. All of these considerations mean that a major upheaval in the way SEN is funded could put a risk the successful implementation of these reforms.

For more information about this consultation response please contact Matthew Dodd, SEC coordinator (mdodd@ncb.org.uk)