

Date of meeting:	Monday, 19 November 2018
Title of report:	Consultation on changes to the high needs budget
Type of report: Delete as required	For discussion only
Executive summary: Including reason for submission	Provides an update on the recent consultation (Proposal 1 only – changing the E3 top-up arrangements for children and young people with EHCPs from a resource allocation system to a banded system model). The paper also looks at the Special School Minimum Funding Guarantee for 2019-20 and a potential application to the Secretary of State to set aside the MFG for 2019-20 only.
Budget / Risk implications:	Potential change in the way in which E3 top-up funding is calculated. Potential impact on Special School budgets for 2019-20.
Recommendations:	Schools Forum to note the feedback on the consultation (Proposal 1 only); Schools Forum to express a view on the potential disapplication request relating to the Special School MFG
Voting requirements:	Schools Forum members
Appendices: To be attached	
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Consultation on changes to the high needs budget

Proposal 1 - We will change the process for top up funding for children and young people with EHCPs from a resource allocation system to a banding system.

1.0 PURPOSE OF THE REPORT

1.1 The purpose of this report is to:

- Provide an update to Schools Forum on the recent consultation on changes to the high needs budget, specifically in respect of Proposal 1. This proposal stated: *We will change the process for top up funding for children and young people with EHCPs from a resource allocation system to a banding system.*
- Seek Schools Forum's views about the proposal to inform recommendations on the proposal.

This is not part of the consultation on changes to the high needs budget nor is it a decision making process. Schools Forum are being asked to give views as part of their remit. These views will be taken into account as recommendations are developed to take through the democratic decision making process. Decisions on the proposals will be made by the Council's Executive, and this is scheduled for January 2019. The other proposals taken out to consultation will be brought to a subsequent Schools Forum.

2.0 BACKGROUND

- 2.1 The LA has a statutory responsibility under the Children and Families Act 2014 to keep its special educational provision under review, to ensure sufficiency in placements to meet the needs of children and young people with special educational needs and/or disabilities (SEND), working with parents/carers, young people and providers.
- 2.2 In order to meet this duty, North Yorkshire has developed its Strategic Plan for SEND Education Provision 2018-2023 (the Strategic Plan). This was agreed by the Council's Executive on 4th September 2018. The Strategic Plan can be found at www.northyorks.gov.uk/sendplan .
- 2.3 The Strategic Plan clearly sets out that the High Needs Budget will be reviewed and reshaped. This will be an ongoing process. The first part of this process was the consultation on three proposals which took place in October and November 2018. The three proposals consulted on related to:

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- Changing the process for top up funding for children and young people with Education, Health and Care Plans (EHCPs) from a resource allocation system to a banding system.
- Changing the way provision for secondary aged pupils who are permanently excluded or at risk of permanent exclusion is commissioned and funded in North Yorkshire.
- Bringing arrangements for provision and funding for young people with EHCPs receiving post 16 education, into line with statutory guidance

- 2.4 This report focuses solely on the first proposal: '***We will change the process for top up funding for children and young people with EHCPs from a resource allocation system to a banding system.***' Full consideration needs to be undertaken in respect of the consultation, all proposals and all the feedback. However, in respect of proposal 1, if following consideration of the consultation feedback a recommendation is developed to pursue this proposal, the local authority may require an application to the DfE to be made to disapply the minimum guarantee funding for special schools. The deadline for any such application to be made is 20 November 2018. Therefore, the Authority is updating Schools Forum and seeking your views at this stage on this part of the High Needs Budget consultation. On this proposal, the local authority is required to make this application for permission, although it does not have to implement that application should it be granted by DfE.

3.0 The Consultation Process

- 3.1 The consultation on the changes to the high needs budget began on 5th October 2018 and ended on 11th November 2018, lasting a total of 38 days. Views were requested from:

- parents and carers of young people with SEND
 - children and young people with SEND;
 - staff in early years settings, schools, alternative provision and further education settings (e.g. colleges), including governors;
 - parent and carer groups, including North Yorkshire Parents and Carers Together (NYPACT);
 - local authority staff.
- Given the proposals being consulted on the following groups were also specifically targeted:
- parents and carers of children and young people with Education, Health and Care plans (EHCPs)
 - young people aged 16 and over with EHCPs
 - children and young people receiving provision from Pupil Referral Services and Alternative Provision.

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- 3.2 There was a survey asking for views on the proposals and any other ideas and suggestions. This was available on line via the Council's website and via the Local Offer. Paper copies were available on request and an 'easy read' version was on the website. It was recommended that those being consulted read more details about the proposals at the link <http://cyps.northyorks.gov.uk/nyep-meetings-and-agendas> .
- 3.3 During October and November 2018 the consultation included:
- Lunchtime and parent/carers' meetings in each of the localities (Craven; Hambleton/Richmondshire; Harrogate/Knaresborough/Ripon; Scarborough/Whitby/Ryedale and Selby.
 - Three meetings for education professionals and schools staff. Two of these were held in the morning and one in the early evening.
 - A meeting with the Flying High young people's group
- 3.4 In addition the presentation given at these meetings was available on the consultation website, and a series of frequently asked questions were added to the website during the consultation period. SENCOs in mainstream schools and Headteachers of special schools were asked to support young people to participate in and respond to the consultation and the local authority also provided support for young people in pupil referral services/alternative provision to contribute their views.
- 3.5 During the consultation the three proposals for changing the High Needs Budget were explained, and feedback on each of these requested. The three proposals formed the structure of the presentations and discussion at meetings and with young people, and the survey questions. Themes from the public and professionals consultation meetings were collected to inform consultation outcomes.
- 3.6 The consultation ended on 11th November 2018. The process of collating and analysing all consultation feedback is currently taking place. All written feedback, including responses will be included with the report to The Executive in January 2019. This information will be made public.

4.0 Consultation Feedback - overall

Please note that this section covers initial headline information about consultation feedback, taken at the point of closure of the consultation. A full in depth analysis of all information on all three proposals received during the consultation is underway and Schools Forum will be further updated.

- 4.1 At the end of the consultation period, a total of 324 respondents had completed the online survey. 305 of these respondents indicated who they represented. Of these:
- 162 (53% were parents/carers)
 - 20 (7%) were a child/young person

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- 123 (40%) were responding on behalf of an organisation. The majority of these (90%) were responding on behalf of an education organisation.

It must be noted that there will be additional responses to be taken into account from paper copies of the survey and other written feedback.

4.2 In terms of respondents locality areas the responses were as follows:

- Craven 32 respondents (10%)
- Hambleton/Richmondshire 50 respondents (15%)
- Harrogate/Knaresborough/Ripon 114 respondents (35%)
- Scarborough/Whitby/Ryedale 73 respondents (23%) (of these 74% were from Scarborough; 7% from Whitby and 19% from Ryedale).
- Selby 55 respondents (17%)

5.0 Consultation feedback – proposal 1 - *We will change the process for top up funding for children and young people with EHCPs from a resource allocation system to a banding system.*

5.1 As noted above the following is initial headline information only following the consultation process.

5.2 Through the online survey the following questions were asked about this proposal:

- Question 5. To what extent do you agree with Proposal 1?
- Question 6 Please provide further information
- Question 7 Do you agree with the way we have worked out the values for the bands?
- Question 8 If no, please suggest how else we could work this out.

5.3 In terms of responses to question 5 (To what extent do you agree with proposal 1?) there were 281 responses on the online survey to this question (87% of total respondents). The current position is as follows (percentages relate to those responding to this question only):

- Strongly agree 15 respondents (5%)
- Agree 68 respondents (24%)
- Neither agree nor disagree 83 respondents (30%)
- Disagree 46 respondents (16%)
- Strongly disagree 69 respondents (25%)

5.4 There were 172 comments provided in response to Question 6 which asked for respondents to provide further information. Of these:

- 27% were in support of the proposal

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- 46% were incomplete answers or the respondent needed more information to respond, stated they didn't understand or gave an unrelated response.
- 14% were not in support of a banding methodology
- 13% of comments disagreed with the proposal as it stands and requested specific responses to questions around process, funding or age range.

5.5 In terms of responses to Question 7 (Do you agree with the way we have worked out the values for the bands?) there were 236 respondents (73% of total respondents). 79 (33% of those responding to the question) agreed with the way the banding values were worked out, whilst 157 (67%) disagreed. There were then 115 comments received in response to question 8, which asked respondents to suggest an alternative way of working out banding values. Of these:

- 17 (15%) said they disagreed but did not offer any alternatives
- 50 (48%) said they were unable to comment due to a lack of information
- 6 (6%) said they didn't understand the question
- 2 (2%) said they agreed with the banding proposal
- 21 (20%) offered an alternative
- 19 (18%) made comments unrelated to the question

5.6 The following themes came from the consultation meetings in respect of proposal 1:

- A view that the proposal makes sense, that it sounds appropriate and that it will make the process more manageable, and an urgency to take forward work to replace the CAN-DO system
- Timescales for the introduction of the proposal and how it would be phased in for individuals, alongside the process for determining the banding for an individual.
- The reasoning behind bands 1 to 3 having no financial value.
- A need to understand how the bands and values had been developed and for additional information on descriptors.
- Reinforcing that the proposal is not intended to make savings.
- Reinforcing the local authority's duty to make the provision specified in the EHCP
- Clarity on the High Needs budget position
- Understanding the democratic decision making process for the proposal

6.0 Special School MFG

6.1 The local authority must normally set a minimum funding guarantee (MFG) for special schools between 0.5% and -1.5% of overall funding. However, where local reorganisation takes place and there are changes to banding, and where the MFG is breached and the local authority proposes to fund below the guaranteed level, the local authority can apply for an exemption to the MFG. Disapplications may also be sought where it is not possible to compare the top-up funding rates between two years, for example, where there has been a major reorganisation of local provision.

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- 6.2 The local authority has consulted upon proposals to adopt a new approach to funding for pupils with significant special needs and, specifically, to move from the current "Can- Do" resource allocation methodology to a banded funding model. This consultation ended on 11th November 2018. The process of collating and analysing all consultation feedback is currently taking place before officers take a report to the Executive in January 2019.
- 6.3 Introducing the banded funding model will provide a more accurate basis for determining funding for pupils. The Minimum Funding Guarantee (MFG) has a vital role to play in protecting special schools where either (a) the aggregate needs of pupils in their schools have changed substantially or (b) the level of funding provided to pupils has been systematically reduced. However, in this instance it is considered that some special schools will potentially receive less funding because the resource allocation methodology, subject to the recommendations being made following the end of the consultation, is being changed to a methodology which it is proposed will more accurately reflect the resource requirements of individual establishments. Although we think the overall level of funding going into special schools will stay broadly the same (a small increase), the distribution of funding may change. Therefore, it is proposed that the MFG as it applies to special schools is disapplied for 2019-20. This would permit the funding changes resultant from the new resource allocation methodology to take effect in 2019-20. The MFG would be reinstated for special schools for subsequent years.
- 6.4 The financial implications of the changes to the resource allocation methodologies have been modelled for each special school. It should be noted that:-
- a) these assessments are based on provisional reviews of the pupil population for each school
 - b) the assessments are based upon the needs of the current pupil population and the allocations may have changed significantly by the point that the actual budget determinations are made (due to changes in pupil numbers and/ or changes in the assessed needs of the pupils)
- 6.5 The provisional assessment of the top-up funding allocations for each school are as follows:

	Number of currently funded pupils	Current Can-Do Resource Allocation (£)	Proposed revised methodology (as per School Funding Consultation document) (£)
Brompton Hall	62	335,481	469,340
Welburn Hall	67	472,346	369,890
The Woodlands	71	530,681	475,320
The Dales	49	453,776	468,830

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Springhead	65	652,713	610,400
The Forest	111	752,011	832,744
Springwater	69	637,776	537,420
Brooklands	51	487,110	348,870
Mowbray	186	1,267,422	1,329,305
Forest Moor	52	286,600	462,720

NB. Figures relate to E3 Top-up Funding allocated through the Can-Do resource allocation system and proposed banded system model. It does not include E1 and E2 place funding, E3 contextual funding or E3 residential top-up funding.

- 6.6 The consultation closed on 11th November. Initial results from the consultation with all 10 schools show:
- there were 8 responses
 - two schools supported the disapplication
 - six schools did not support the disapplication

Response comments are provided in **Appendix 1** to this report.

- 6.7 Any disapplication request must be submitted by 20th November 2018 for consideration by the Secretary of State. It is proposed that the disapplication request is submitted to the Secretary of State in line with the DfE deadline. However, it will be up to the local authority whether to use this power if permission is given. This submission of the disapplication request does not commit the local authority to using the power; it does, however, provide more flexibility. This will be considered in the setting of special school budgets for 2019/20.

7.0 Next steps

- 7.1 Schools Forum is asked:
- to give a view on Proposal 1 to inform recommendations and subsequent decision making.
 - to give a view on the proposal to apply to the Secretary of State for the disapplication of the minimum funding guarantee for special schools in 2019-20

STUART CARLTON
Corporate Director – Children & Young People’s Service

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Appendix 1

Comments on the Consultation Regarding Disapplication of MFG for 2019

MFG is there to protect schools from significant changes to their school budgets. If the disapplication of the MFG goes ahead for the year 19-20 we would have a significant change to our budget.

With the introduction of the revised methodology for resource allocation, the figures show that we would lose £138,240 (28%) for the year 19-20 with no protection and, going forward to future years, any MFG would be based on that lower rate of funding.

We are already in a deficit situation - £76K this year and £150K the following year. To ensure the school continues to be viable, we have been working with the LA to put plans in place to increase capacity and offer a respite service as The Ghyll moves towards closure. With another significant drop in our funding any positive steps we are putting in place would be completely negated by a drop in income of £138,240.

My understanding is that the MFG is only applied to revenue funding and is not linked to top up funding and that disapplication from the MFG by the LA has to be approved by an application to the EFSA. Guidance from The Key states - Requests are considered only if there is a significant change in a school's circumstances or pupil numbers, and the inclusion of a factor in the MFG would lead to significantly inappropriate levels of protection.

A representative from the EFSA explained that the application of the MFG does not change based on why the school's allocation has changed. For example, the application is the same in cases where:

- A school's funding allocation changes as a result of changes to pupil characteristics (leading to changes in the amount allocated through different funding factors)
- The LA changes its local funding formula, or changes the monetary values attached to formula factors, leading to significant changes in school budgets.

I am unclear as to the accuracy of the figures produced in point 5 - The Provisional assessment of the top-up funding allocations. From looking at the figures it would be clearly disastrous for five schools to adopt the changed RAS system and clearly amusing that one of the biggest 'gainers' had a surplus of over £1million pounds a year ago! This also has to be coupled with the fact that the majority of the 'looser' schools are currently in deficit and this will simply add additional problems to those schools.

I also note that whilst the school would gain £176,120, this would effectively go toward paying off their enormous debt and thus the money returns to the LA?

I cannot support the proposals outlined in the consultation document.

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The effect of this, I believe would be catastrophic for pupils at the School.

Your forecast predicts that the transition from the old to new system of funding will have severe financial consequences for a number of special schools. Three schools will lose in excess of £100,000, equating to between 16% and 28% of their per pupil funding from this funding stream. Another two schools will lose smaller but nonetheless appreciable five figure sums. These losses of funding are far too large to be absorbed in one year and will only add to the pressures where schools are already in a deficit budget position. It is worth pointing out, also, that your model predicts that two schools may gain £176k and £134k from this process, and it is difficult to see how additional funding of this magnitude could be treated as anything other than "windfall" for the school that already holds a significant budget surplus.

You imply that the MFG should not be applied because the overall level of funding is staying the same and it is merely the distribution that is changing. That is flawed reasoning. The MFG would apply at school level - and that is where the impact of these changes will be felt. The fact that there are winners in the reallocation process is irrelevant in the context of its impact on the losers. The proposal seeks to undermine the purpose of MFG in providing a degree of stability to school budgets. I cannot therefore support the proposals outlined in the consultation document.

We do not currently support the disapplication of the MFG for Special Schools in 2019-20 for the following reasons:

- The MFG is in place to protect any school / school from losing more than 1.5% in one year, which based on the information provided by NYCC would happen for some of the Special Schools.
- As a member of the HNF Sub-Group committee, the details of the proposed RAS banding were not forth coming at the last meeting held and neither were they fully available at the most recent Special Heads meeting, so we would like clarification about where the funding details provided in the attached documentation originated and is it guaranteed to be the levels identified for the schools?
- Some schools have already been significantly impacted by other proposals already put in place (e.g. reduction in residential funding with only a few weeks notice in April 2018), so the MFG proposal would seriously impact on the quality of provision provided by Special Schools. What will NYCC be doing to support those schools who will potentially be negatively impacted by several of the proposals, as NYCC appears to be looking at the individual proposals in isolation, without acknowledging that for some of the Special Schools, collectively the proposals may have a significant financial impact which doesn't appear to have been considered.

Whilst I understand that the request for an exemption to the MFG requires the agreement of the local schools forum and the schools concerned, it seems absurd to me that we are being asked if we might agree to this process, and I would certainly not envisage any of the schools consulted to feel any differently.

With the current financial landscape, both nationally and particularly regionally being what it is, the proposed indicative financial outcomes for schools serves to further widen the gap between those whose budgets 'work' and those whose budgets 'fail', the consistency of which only serves to prove that the proposed new RAS is hugely flawed in its banding methodology whatever that may be (this information has not yet been shared with us).

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