

REGULATORY AND OTHER COMMITTEE REPORT

NAME OF COMMITTEE:	Schools' Forum
DATE OF MEETING:	13/10/10
SUBJECT:	SEN funding formula review
REPORT BY:	Tony Warnock Head of Finance – Children's Services
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IS THE REPORT EXEMPT?	No
IS REPORT CONFIDENTIAL?	No

SUMMARY

The purpose of this report is to highlight key issues arising from the recent review of the SEN formula factor that was introduced in April 2010, and to seek the Schools Forum's views on those issues and how this work should be taken forward.

DISCUSSION

At its meeting on 30 June 2010, the Schools Forum supported the Local Authority's (LA) proposal to commission a working group of school representatives to review a number of important aspects of the new SEN funding formula.

A number of Schools Forum members volunteered to assist with that task. Other school representatives were invited, to ensure that all sectors and schools that had gained and lost funding under the new system, were fairly represented. Members of the working group are shown in Appendix 1. The aim was to reach a consensus of opinion on a number of important issues and to do so through a frank exchange of views. The meeting was held at Horncastle College on 20 September 2010.

The information in Appendix 1 highlights the key issues that were discussed and the conclusions that were reached by the working group.

The Directorate Management Team and Executive member for Children's Services plan to consider shortly, the views of both the working group and the Schools Forum. Proposals will then be considered by all schools (through the autumn area headteacher and other meetings) and third parties. Once that work is complete, final proposals will be presented to the Schools Forum on 27 January 2011, prior to final decisions being taken by the Executive member for Children's Services in early February 2011. Those decisions will then be implemented in April 2011.

RECOMMENDATIONS

The Schools Forum is asked to:

- a. Note the content of the report.
- b. Consider and comment upon the conclusions reached by the working group, as set out in Appendix 1.
- c. Comment upon the proposals for taking forward this work (i.e. through consultation with other schools and third parties).

BACKGROUND PAPERS			
The following reports were relied upon in the writing of this report.			
PAPER TYPE	TITLE	DATE	ACCESSIBILITY
Report	Additional Needs – update	30 June 2010	Committee Services, County Offices, Newland, Lincoln

APPENDICES
Appendix 1 - Key findings from the Working group meeting held on 20 September 2010

Review of the new SEN funding factor
Key findings from the Working group meeting held on 20 September 2010

The working group comprised:

School representatives:

Primary:

Steve Douglas	Headteacher, Cranwell primary school
Anne Grief	Headteacher, Long Sutton primary school
Andy Craven	Headteacher, Horncastle primary school
Peter Jackson	Headteacher, Sleaford William Alvey Church of England school

Secondary:

Ellenor Beighton	Headteacher, Market Rasen De Aston school
Andy Wright	Headteacher, Lincoln Christ's Hospital school
Martyn Taylor	Headteacher, Donington Thomas Cowley High school

Primary and secondary federation:

Adrian Reed	Executive Headteacher, Boston Witham Schools federation
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Special

Michael Follows	Chair of Governors, Boston John Fielding Community Special school
Bill Bush	Headteacher, Grantham The Phoenix school

LA representatives:

Paul Snook	Principal School Improvement Adviser - Strategic Projects - CfBT
Gary Nixon	Interim Head of Participation and Inclusion - CfBT
James Thomas	Principal Information Officer – Children's Services
Patrick Heppenstall	Finance Officer (SEN) – Children's Services
Mark Popplewell	Assistant Head of Finance – Children's Services
Tony Warnock	Head of Finance – Children's Services

The purpose of the meeting was to review aspects of the new SEN funding formula introduced in April 2010. It was stated explicitly that the LA's intention was not to undertake a major overhaul of the new formula, but to resolve a number of very important issues that arisen as part of implementation of the new formula in April 2010.

The Key Issues

The following questions were considered:

Question 1: Should the new SEN formula apply to Nursery schools?

The background to this is that:

- The new SEN funding formula was not applied to the five Nursery schools in April 2010.
- No prior attainment data is available for children in Nursery schools.
- Use of retrospective assessment was considered inappropriate.
- The nursery school headteachers would prefer to continue to use Early Years Action & Early Years Action Plus to identify such needs, but have the funding calculated on a termly basis, not annually.

Key points raised were:

- Similar aged children in nursery classes in primary schools are not triggering funding. Officers agreed to look at the number of children with SEN in nursery classes to see whether the numbers were sufficient to warrant an extension of the formula (JT). However, it was noted that: these children's SEN is identified and funded later in their school careers; all schools have funding for SEN routinely available in their budgets; funding for statements at higher levels, i.e. bands 6 to 8, is currently available to primary schools with nursery classes; funding via pre-assessment places exists for complex needs; the formula uses proxy measures to allocate funds and does not necessarily identify every child's needs when determining the funding allocation. It was agreed that schools with nursery classes need to be made aware that this issue has been considered, even if the SEN formula does not change.

Despite the aforementioned points regarding nursery classes in primary schools, there was no objection to the proposal that the LA uses Early Years Action & Early Years Action Plus to fund lower level SEN in nursery schools from April 2011, based on termly counts.

Question 2: Should the new SEN formula apply to Special schools?

The background to this is that:

- The new SEN funding formula was not applied to Special schools in 2010/11.
- Special school funding is currently the subject of a separate, detailed review.
- There is a consensus within the special schools working group that whilst statements will continue to exist, they should not be funded through a separate, discreet formula factor.

Key points raised were:

- A large group of special school and officer representatives are looking at this and a report will be presented to the Schools Forum in October 2010.

The recommendation not to apply the new SEN formula factor to special school funding was universally accepted.

Question 3: Should the SEN formula factor apply to Y12 and Y13 Pupils?

The background to this is that:

- When the new SEN formula was introduced, funding was not allocated to Y12 & Y13 pupils with low level SEN.
- The number of pupils with low level SEN in Y12 & Y13 was estimated to be small. Indeed, for 2010/11, the total value of Bands 1-5 for sixth form children was £0.164m, comprising 52 pupils from 21 schools.
- The c.£15m sum delegated through the new SEN formula included the budget for Y12 & Y13, but not the data for those pupils to allow their school's to obtain an appropriate share.
- Officers suggested a new approach using the current national Key Stage 4 indicator set, a threshold of 5+ A*-G including English and Maths, with each qualifying pupil attracting a weighting of one. Also, Y12 and Y13 pupils would qualify for the free school meals deprivation element of the formula, but not the IDACI element (due to prohibitive costs of data collection, when compared to the very modest financial impact upon individual schools).

Key points raised were:

- The proposed threshold was too low, as most children exceed the threshold but still have SEN.
- Sixth form pupils are often too embarrassed to claim f.s.m. and EMA might be a better way to determine the deprivation element (JT).

- The number of Level 1 courses being taken might be a fairer way of targeting resource than GCSE scores (JT).

The recommendation to fund Y12 & Y13 pupils was widely accepted. However, the proposed qualifying level was considered far too low and an alternative measurement (e.g. Level 1 courses) should be considered. Free school meals should not be used for the deprivation element of the formula and consideration should instead be given to adopting an alternative measure, e.g. entitlement to EMA, if that data is available.

Question 4: Should the formula be amended to include the Year 4 Reading Test data for primary schools?

The background to this is that:

- The new SEN formula relies heavily on pupils' Key Stage 1 assessments, i.e. for 4 years, for the prior attainment element of the formula.
- For various reasons, some children have not completed the Key Stage 1 assessment, e.g. children arriving from overseas, and so will not attract funding.
- Children can fall behind between Key Stage 1 to Key Stage 2 and the formula needs to be more responsive to such changes. Officers proposed that funding could be triggered when children do not meet the expected national levels, and; a graduated weighting system could be used (e.g. <50 score = a weighting of 3; a score of 50-80 = 1.5 weighting, and; a score of 81-99 score = a weighting of 1, or using quartiles to give a similar size population in each). Under this approach, children in Years 5 & 6 would be funded according to the Year 4 reading. The Year 4 reading tests could then assist with moderation through trend analysis and this amendment to the formula would help address missing Key Stage 2 data for those schools that did not complete the national tests in 2010.

Key points raised were:

- The proposal would also address pupils moving in from out of county.
- The term 'reading test' may not be accurate, but the terminology should be retained because it is widely understood across the school sector.
- Clarification would be sought to establish whether schools had been given explicit instructions by the LA for statemented pupils not to complete the test (JT). The data may not therefore be complete.

Question 5: How should the formula deal with children for whom attainment data was not available?

The background to this is that:

- A small number of schools had raised concerns that some of their pupils may not have completed the Key Stage 2 tests, and would therefore not be considered for funding under the new SEN formula. For one school, this also applied to its boarding house pupils.

Key points raised were:

- This situation can arise in every school and for a variety of reasons, but often it will be on a small scale.
- It was suggested that in some cases, data may be unavailable for approximately 20% of pupils.
- Introducing another test, e.g. at Year 8, to capture all pupils, may be an expensive way to tackle this issue.
- Although data may be missing for some pupils, it does not necessarily follow that those pupils have SEN. The pupils may indeed have other needs, but they may not be special educational needs.
- With regard to the boarding house, although data may be unavailable because children have come from overseas, it would be illegal to charge extra fees to cover the costs of SEN.

It was concluded that: this is an issue that affects most schools to a certain degree; no significant change to the formula is therefore necessary; the introduction of a Year 8 test is unnecessary; however, where numbers are significant for individual schools, a separate funding mechanism should be explored. It was agreed that some further work would be undertaken to see whether some schools had data available for less than 80% of pupils and, if so, how an additional system of funding might be developed for them, without duplicating the funding available via other formula factors, e.g. EAL, high turnover, etc (JT). This may affect 2 or 3 schools only and data to create an alternative proxy measure should be easily available for these pupils.

Question 6: How should 'medical' cases be funded?

The background to this is that:

- The LA holds a central budget to deal with a number of unusual cases of special needs. Whilst originally designed to respond to short term, health or medical related conditions, it became used for wider purposes, including enabling a more prompt response to a pupil's needs, when the child did not

have a statement. Recent analysis shows that it has been inconsistently accessed and allocated, with health care professionals significantly influencing funding decisions in some cases. This element of the budget was not delegated in April 2010, pending a more detailed review.

- That review of all c.300 cases has now been undertaken and the key conclusions were that: in law, (the 1996 Act and the SEN Code of Practice), there is no such thing as a 'medical' statement; most of the funding can be distributed through the new funding formula; the majority of cases are such that they should not have been funded centrally; the type of need is predictable (at bands 1-5) and can be safely delegated; where funding exceeds Band 5, then the needs appear to be less predictable and more likely to need exceptional provision; there is an inconsistent use of this funding stream across schools; there is inconsistent practice across fieldwork health professionals; none of the supported pupils have just medical needs and in all cases they have a condition that creates a barrier to learning; the funding arrangements should be normalised within the SEN funding scheme to enable a prompt response (e.g. in sad cases where children have cancer). The group proposed that further work be undertaken to: incorporate current arrangements within the wider funding scheme; discuss the expectations of health professionals in schools, and; develop new guidance for schools that refers them to the DFE' guidance on children with medical needs in schools and, as such, their responsibilities.

Key points raised were:

- The current system is not equitable, fair or consistent; some costs should be funded by Health, and; in some cases, funding was meant to be short term but has not been reviewed.
- A further detailed review of cases should be undertaken, with some of the funding delegated through the new formula and a sum retained centrally for 'exceptional' provision (qualifying pupils may or may not have SEN). However, this will take time.
- A clear policy is needed to define 'exceptional' provision.
- Not all cases will be predictable (e.g. car accidents) and the loss of funding may result in some children not attending school.

There was broad agreement that the current arrangements are inconsistent and therefore unsatisfactory. National guidelines should be used to develop a clear policy, criteria and guidelines locally. The Health authorities should be challenged over their advice and their financial contributions. The development of this area of policy should be closely linked with provision available from the hospital school. Subject to the review of individual cases, it may be possible to delegate one third of the current budget, but the timescale for doing so is not clear at present (GN).

Question 7: Should the funding of Bands 6 – 8 change following the introduction of the new formula?

The background to this is that:

- The system for funding statements at Band 6 to 8 remained unchanged at 1 April 2010 and there is a possibility that schools with those pupils are double funded. That is because pupils with Band 6 to 8 statements were not excluded from the data used to distribute funding through the new formula. There is, therefore, a possibility that some schools are receiving funding for pupils through the new formula factor because their prior attainment is low, and are also continuing to receive a much higher level of funding delivered by the Bands 6 to 8 funding system.
- Officers suggested that the preferred approach to resolve this may be to remove the children that qualify for Bands 6 to 8 statements from the data used to allocate the funding through the new SEN formula factor. This would remove the risk of duplication and should not prove detrimental to children with higher level need, as their statements should already take account of any low prior attainment issues.
- Officers also proposed that alternative descriptors be found for bands 6, 7 and 8, as direct funding for bands 1 to 5 ended on 1st April.

Key points raised were:

- Modelling should first be undertaken to assess the financial impact upon individual schools (JT/MP). However, it was noted that the financial loss could only be c.£3k per child, as this is the maximum amount that a child can trigger under the new formula factor.

There was universal acceptance that schools with these children may be double funded and that the Band 6 to 8 children should be removed from the data used to allocate funding through the new SEN formula (JT). However, the financial impact upon individual schools should be reviewed first and, if this change is implemented, the relevant schools should be advised accordingly. It was agreed that an alternative name for bands 6, 7 & 8 should also be considered.

Question 8: How should the level of funding for the new SEN formula factor increase over time?

The background to this is that:

- Under the previous funding system, the level of funding almost trebled in ten years, resulting in a greater percentage of the total schools budget being distributed through SEN. A repeat of that situation should be avoided, but it must be acknowledged that over time, the level of special needs within individual schools, sectors and the LA may change, and it would be sensible to allow the budget to alter accordingly.
- Officers therefore proposed that the LA will: in the short term, inflate the budget for each sector by the same rate as all other formula factors (e.g. by the minimum funding guarantee, if that still exists), and; in the medium term, compare its schools' attainment with its statistical neighbours and allow the SEN budget for each sector to alter, to reflect that relative position. Furthermore, the budgets for the primary and secondary sectors will otherwise remain unchanged (i.e. they will be ring-fenced at sector level), to prevent a recurrence of the significant growth in one sector compared to the other, as happened under the previous formula between 2000 and 2010.

Key points raised were:

- When comparing LA spending, officers should also assess whether there are new or better ways of distributing this funding.

There was universal acceptance of this proposal.

Question 9: What transitional funding arrangements that should apply after 2010/11?

The background to this is that:

- Transitional arrangements were introduced in 2010/11 and these need to be phased out. Recognising the short notice at which the new SEN funding formula was introduced, it was important that transitional arrangements were applied in 2010/11 and, listening to the views expressed by schools, the LA decided to protect all schools from losses in 2010/11. The cost was £2.3m, which was funded from the 2010/11 DSG 'headroom' funds. In addition to a 'floor' of £0, ceilings were also introduced at £40,000 to help restrict initial gains and thereby help finance the floor arrangement. Strong representations were made by school representatives at the Schools Forum meeting in February 2010 and elsewhere, that transition should extend for two further years.
- Officers therefore proposed that two further years of protection should apply, to phase in the full gains and losses¹:

Year 2 (2011/12)

Primary: £20k Floor or 2% of budget, & £80k Ceiling (this will require additional funding of £0.033m)

Secondary: £50k Floor or 2% of budget, & £80k Ceiling (this will require additional Funding of £0.699m)

Year 2 transition would therefore cost £0.732m, which would release £1.664m from the Year 1 transition funding.

Year 3 (2012/13)

Primary: £40k Floor or 4% of budget, & £120k Ceiling (this will create a surplus funding of £0.025m)

Secondary: £100k Floor or 4% of budget, & £120k Ceiling (this will require additional funding of £0.186m)

Year 3 transition would therefore cost £0.161m, which would release a further £0.571m from the Year 2 transition funding.

Year 4 (2013/14)

No Protection.

- Broadly, this provides two equal steps between the current transitional funding levels and the full gains and losses that schools with the largest gains and losses can expect to see when all transition is removed. Officers reported that this phasing would allow the LA time to review and, if necessary, challenge schools where subjective recordings of pupil attainment appears unexpectedly low; it would free up a significant amount of the DSG funding in future years, and; schools will be given even more time to develop plans for reducing staffing levels through natural wastage, etc, and thereby help avoid, or minimise, redundancy costs for both the school and the LA.

¹ This will require DMT and Executive member approval.

Key points raised were:

- Only those schools with the largest gains and losses would have transition phased out in two equal steps; primary and secondary schools could lose up to £20k and £50k respectively next financial year.
- It may be necessary to revisit these proposals, depending upon the outcome of the government's comprehensive spending review and allocation of resources to school budgets over the next four year period.
- To aid financial planning, schools need to be advised at the earliest opportunity of the LA's proposals on this issue, even though there will be uncertainty created by the comprehensive spending review, and formal decisions will not be made by the LA on transition until early February 2011 (TW).

There was universal support for this proposal.

Question 10: How can the risks associated with the use of subjective data in primary schools be minimised?

The background to this is that:

- Any system of funding that relies on subjective information provided by the beneficiaries of that funding is likely to increase the risk of it being misstated and potentially result in unfair allocations and growth if left unchecked.
- The prior attainment element of the new SEN funding formula distributes 80% of the total funding. For the primary sector, it is based on the subjective data, i.e. Foundation Stage profile assessments and Key Stage 1 assessments (although the proposal above to introduce the Year 4 reading test would bring objectivity to the funding of years 5 and 6).
- Schools could not have anticipated, or therefore have been influenced by, the introduction of a new SEN funding formula in 2010, but it is of concern that in the two years between the modelling data and the actual data used, there was a significant increase in the number of children meeting the Foundation Stage Profile criteria (i.e. 524 in 2008/09 to 771 in 2010/11). This is a particularly important because the Foundation Stage Profile delivers a high value of funding for each qualifying pupil. Of more concern is the accuracy of some Key Stage 1 assessments, although the Year 4 reading test proposal would help to verify that data. The Performance Management Team has introduced measures to identify inaccuracies in data, through statistical analysis. This will highlight unusually high incidences of low Foundation Stage Profile assessments. The Team will also monitor the rate of change from one year to another. In addition, the Birth to Five Service is undertaking further work in this area, by providing appropriate challenge to the data recorded by schools. Officers therefore recommended that the process be formalised, with monitoring and reporting arrangements communicated clearly to all schools. Agreement would need to be reached with regard to the LA, CfBT and SiPs respective roles and responsibilities in this important work.

Key points raised were:

- Effective monitoring will be very difficult and may prove superficial, without significant LA resource.
- Often, the variations in school data from year to year are simply caused by errors in their data and these are identified by the LA.
- It will be possible to highlight anomalies that are not caused by simple data error / input.
- The professionalism of staff in schools should be trusted and, if there is a deliberate attempt to increase funding, this will be exposed. The accountability and monitoring strategy promised by the LA will be issued this term and existing teams and resources will be used to undertake this important work.
- Each school should have its own rigorous system to monitor its assessment of children, but external moderation is necessary.

It was widely acknowledged that the extensive use of subjective data within the formula creates risks to the new funding system. To respond to that, it was agreed that the LA should introduce clear monitoring arrangements, to highlight and challenge schools on unusual data. This should utilise existing, not additional resource.

Question 11: How can a potential, unjustified drift from Bands 5 to 6 be prevented?

The background to this is that:

- Another potential risk with the new funding system is that schools could seek to have too many children at Band 5 re-classified as Band 6. That could generate a requirement for significantly more funding.
- An alternative terminology for 'Bands 6, 7 and 8', should be considered.
- Officers proposed that a monitoring and reporting system is developed to provide the DMT with quarterly reports showing the number of statements at each Band and thereby highlight any material

shift in the number of statements to Band 6, or upwards from Bands 6 or 7 (GN/ PH), and; that using the terms 'low', 'medium', 'high' could be used for higher level statements.

Key points raised were:

- Where a Band 5 statement is increased to Band 6, the proposal under Question 7 above would help prevent double funding, but only from the start of the next financial year.
- Checks and balances are needed within the system to prevent an unjustifiable drift.

There was universal acceptance that an unjustifiable drift should be prevented and that the LA should introduce measures to monitor and prevent that from happening.

Issue 12: How to address the autistic spectrum through the funding formula?

The background to this is that:

- The autistic spectrum is wide and it is considered by some people that the new funding formula does not respond adequately to this. Children with autism can require varying levels of additional support which cannot be measured easily or effectively through the prior attainment measures in the new SEN formula.
- One suggestion put forward was that Education Psychologists could be used to assess children and agree additional support, but concerns were expressed about: the availability of resource to do this work; the inconsistencies and unfairness that might emerge, and; the prospect of significant growth in that element of the budget over time. Questions were also posed as to whether there was evidence that the needs of these children were not being met to warrant a change in the new SEN funding formula and whether all schools were adopting recommended practice for responding to such needs.

Key points raised were:

- Autism is one of several factors that can trigger low attainment, and undue focus should not be placed upon this category of need.
- The range of need varies tremendously, with some children needing much more tailored support.
- There is inconsistency of diagnosis within the county and this does not provide a sound base from which to allocate funding.
- The resources already held outside of the new formula could be used more flexibly to deal with those children that need greatest support (and not just those children with autism).
- Up to £0.5m of the £15m budget delegated through the new SEN factor could be withdrawn, to add to the 'exceptional provision' (a.k.a. 'medical budget') budget, to respond to such children's needs.

There was broad agreement that: this issue is very important, but that it should not be confined to the autistic spectrum; there are occasions when the new funding system will not cater for the extreme needs of some pupils; finding a suitable solution is not easy, and; further work by officers is necessary to find a suitable solution and, as part of that, reference should be made to advice and guidance available nationally (GN).