

Open Report on behalf of Debbie Barnes, Executive Director of Children's Services

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| Report to: | Councillor Mrs P A Bradwell, Executive Councillor for Adult Care, Health and Children's Services |
| Date: | 23 March 2018 |
| Subject: | Special Schools Funding Formula 2018/19 |
| Decision Reference: | I015437 |
| Key decision? | No |

Summary:

The purpose of this report is to detail the outcomes of the Local Authority's consultation with its special schools on the proposed funding formula for 2018/19 (enclosed).

The proposed refinement to the funding formula are necessary to ensure the appropriate level of resources continue to be allocated to allow special schools to best meet the needs of its pupils in the changing demographics of Lincolnshire special schools. The fundamental building blocks of the existing funding formula remain.

The outcomes have been considered, and the Local Authority is now in a position to present its latest proposals for special schools funding in 2018/19, for Executive Councillor approval.

Recommendation(s):

That the Executive Councillor:

1. approves the Local Authority's special schools funding formula proposals for 2018/19 set out in Appendix A.

Alternatives Considered:

The special schools funding formula was implemented in 2011/12 and the fundamentals have remained in place since. The funding formula was the result of extensive consultation with special schools and other parties. The formula seeks to provide financial stability and predictability through a simplified and objective approach to the funding of special schools through a lump sum (a staffing block and non-staffing block) linked to the group size of schools, and a pupil block generated from a series of bands and descriptors using actual pupil numbers. It is always appropriate to review the effectiveness of any formula and its workings to ensure it allocates reasonable funding levels to schools to support the needs of its pupils in the sector.

The Local Authority believe the underlying principles of the formula are strong and fit for purpose, which has been supported by the sector, and therefore do not require a fundamental change, however it is recognised that following engagement with the sector some additions and amendments to the funding formula are necessary to ensure the appropriate level of resources continue to be allocated to allow special schools to best meet the needs of its pupils in the changing demographics of Lincolnshire special schools.

The Local Authority recognises the demands and complexity of pupils needs, and the Local Authority feel it has responded positively to feedback from special schools during this process. The Local Authority proposes to apply a 0% minimum funding guarantee to ensure no school loses on a per pupil level in 2018/19 from the proposed refinement of the funding formula. The 2018/19 proposed funding formula levels (include academic year place number changes) compared to the 2017/18 funding levels, is an increase of £1.941m (or 7.5%).

No alternative funding option was provided through the Local Authority's consultation with special schools, since the fundamentals of the current funding formula are strong and fit for purpose; however it is best practice for Local Authorities to keep funding formulas under review to respond in a timely manner to changing needs.

The proposals have been considered in light of the consultation on the new SEND vision for Lincolnshire ensuring that the funding formula is adaptable to any future changes in the special schools sector.

Reasons for Recommendation:

To enable the Local Authority to refine the special schools funding formula for 2018/19 to ensure the appropriate level of resources continue to be allocated to allow special schools to best meet the needs of its pupils in the changing demographics of Lincolnshire special schools.

The approval will allow the special schools funding formula to be formally approved, which will be used to fund all special schools in 2018/19.

1. Background

The special schools funding formula was implemented in 2011/12 following extensive consultation with special schools and other parties. The fundamentals of the formula have remained in place since, which has provided financial stability and predictability through a simplified and objective formula.

It is best practice for Local Authorities to keep funding formulas under review to respond in a timely manner to changing needs. The Local Authority has undertaken a number of engagements with the sector through a survey questionnaire (October 2016) on all components of the funding formula; two head teacher briefing sessions on the funding formula (July 2017), and a designated working group of six head teachers representing the sector with Local Authority officers discussing detailed components of the formula (January 2018).

Running alongside this has been a review of each Lincolnshire special school pupil's Education Health Care (EHC) plan by the respective school and a Local Authority moderator. The most appropriate band and descriptor to meet the pupil's level of need has been assigned. This thorough exercise of the proposed bands and descriptors has produced a pupil profile for each school, and based on the agreed place numbers for the financial year 2018/19 will determine an overall level of banding funding for the school.

The representation from special schools and the review of each Lincolnshire special schools pupil EHC plan has enabled the Local Authority to develop funding proposals for 2018/19.

The proposed funding formula approach is based on a theoretical funding model (with key cost drivers) which is recommended as best practice by the government for developing funding formulas. It is important that Lincolnshire's funding formula is underpinned with detail, and this local formula enables the Local Authority to present overall funding through the government's place and top up funding arrangements.

The special schools consultation period covered the 23 February to the 9 March 2018. The consultation period timescales were tight due to the requirement to publish agreed special school budgets by the 31 March in line with the DfE High Needs Funding guidance. The completion of this review was pushed back by the thorough review of all Lincolnshire special school pupils' EHC plans, which had taken longer than expected, and the Local Authority's requirement to implement the government's 2018/19 national funding formula for mainstream schools by the 28 February 2018. This was a significant ask on Local Authorities, due to the limited timescales presented. Special schools were however forewarned of the Local Authority's intention to conduct this consultation exercise during the spring term, and final confirmation came from the Local Authority on the 9 February 2018 to Lincolnshire special schools of the week the consultation would commence.

The Local Authority reported to the Schools Forum on the 18 January 2018, which provided an update to the review of the special schools funding formula for

2018/19. The report outlined the key components of the review and direction of travel.

Schools Consultation

The response rate to the consultation across all Lincolnshire special schools was 90%, which was a positive response rate. The special schools that responded include five (5) academy Trusts¹ representing 12 special schools, and 6 maintained special schools.

The Local Authority set out in the consultation document 8 questions covering 4 subject areas, and these are shown in Appendix A. School illustrative financial modelling was shared with all special schools through the Local Authority consultation exercise based on the proposals of the revised special schools formula. An illustrative school level financial impact of the proposed funding formula using 2017/18 pupil place numbers (with the schools moderated pupil band profile) enabled a direct comparison to be made against the 2017/18 funding levels, and a school level financial impact on the proposed funding levels for the 2018/19 financial year. The school illustrative allocations will have assisted schools in understanding the funding formula and to help inform their consultation response.

Also shown is the percentage of schools in favour, against or not sure, together with an outline of the key comments that emerged from schools. All of the consultation feedback information has been considered by the Local Authority and the report sets out the Local Authority's latest proposals for special schools funding in 2018/19, for Executive Councillor approval.

It is clear from Appendix A, that of the special schools that responded the vast majority supported the Local Authority's proposals to the amendments to the existing funding formula to ensure the appropriate level of resources continue to be allocated to allow special schools to best meet the needs of its pupils in the changing demographics of Lincolnshire special schools.

Where schools raised matters, these were questions about the Local Authority's ability to support the process of annual reviews rather than it not being a suitable option, and the mechanisms which are directed by the government for special school place number reviews and the requirement to have a funding model when delegating funding to schools. The idea of a funding formula that is entirely pupil needs led was also put forward.

The proposed amendments to the funding formula (before considering place number changes for the academic year 2018/19) will increase the overall funding in special schools by £1.722m, which is positive for Lincolnshire special schools. The funding to meet this additional cost has been budgeted for within the High Needs block of the Dedicated Schools Grant.

¹ One academy Trust represents 6 special schools; two academy Trusts have two special schools each, and two further Trusts have one special school each.

The proposed amendments to the funding formula relate to the pupil bands and descriptors, the pupil moderation and a revision of the lump sum funding mechanism.

Pupil Bands and Descriptors

The Local Authority in recent dialogue with special schools has identified the need to create two (2) further pupil bands in addition to the existing five (5) bands, which are as follows:

- Pupils having severe physical and / or sensory disabilities or other medical conditions resulting in total dependence (despite mechanical and technological aids), has recognised the requirement for an additional band to meet this cohort of pupils and their associated costs to access education safely.

The costs involved in providing one-to-one support is significant for special schools, and indeed it is a material sum of monies for the Local Authority to fund through the High Needs block. The Local Authority is providing representation to Health colleagues of their financial responsibilities in supporting pupils with medical needs to access education safely. This is termed Band G descriptor.

- Pupils with a diagnosis of autism spectrum disorder (ASD) with challenging and undesirable behaviour. This band is to ensure additional support can be provided to this cohort of pupils (above the Band B descriptor (former Band 2)), and to provide schools with the resource and capacity to maintain placements. This is termed Band F descriptor.

In consultation with special schools throughout the process of reviewing each Lincolnshire special schools pupil EHC plan, the band descriptors have been reformatted to reflect the four main categories of need specified in the SEND Code of Practice (2015), which can be seen in Appendix B. All special schools responding to the consultation supported the Local Authority's band descriptors.

Pupil Moderation Process

A review of each Lincolnshire special school pupil's EHC plan has been reviewed during the 2017 exercise, which has been used to determine an overall level of band funding for the school in 2018/19. This will ensure the banding funding for each school in 2018/19 is representative of the needs of its pupils.

To ensure pupil-led funding is reflected of pupils needs in the school and updated on an annual basis, it is proposed that a special school's pupils' needs are assessed against the bands and descriptors through each pupil's annual review process.

A pupil data snapshot will take place in the autumn term, which will determine the banding funding in the school for the following financial year's budget share. This is a move away from undertaking a pupil moderation process every 3 years. The

Local Authority has recognised the need to support the timeliness of the annual review process to ensure accurate banding funding is determined for schools. A high percentage of responding special schools supported the pupil moderation process and pupil data snapshot.

Band Ratios and Monetary Values

The comprehensive review of the bands and descriptors has enabled the staffing to pupil ratios to be considered also. The working group of six head teachers and Local Authority officers reviewed the staffing to pupil ratios in detail. The staffing to pupil ratios for set class sizes have been updated, and cost determined through a zero-based budget exercise reflecting 2018/19 costs. The cost drivers include classroom teachers, teaching assistant support, and midday supervisors. This can be seen in Appendix A.

The overriding view from the head teacher working group is that schools should be assured that they have sufficient funding through the banding funding to meet the pupils needs, including times when additional intervention support is required. This approach is supported by the Local Authority. The Local Authority has responded to this by establishing Bands F and G for exceptional provision, and reducing the staffing to pupil ratios to 2:1 (from 2.5:1) for Bands D and E with a smaller class of eight pupils. This is intended to allow special schools to manage such intervention support within the school to ensure placements can be maintained and managed internally.

The changes outlined including the updated lump sum approach² is an overall increase in funding of £1.722m to special schools through the proposed implementation of the funding formula. Of this increase, £0.4m is being funded by recycling the exceptional pupil request costs. The Local Authority does not expect exceptional pupil requests for extra funding to be made above the revised banding funding. The schools consultation responses were supportive of the revised band monetary values. The Local Authority will agree to keep the bands and descriptors under review and acknowledges the two points raised by schools where additional intervention support may be required in certain circumstances. The Local Authority band revisions have reduced pupil to staffing ratios and the inclusion of an intervention officer within the staffing block is to allow special schools to manage such intervention support within the school to ensure placements can be maintained and managed.

School Size

Each special school receives a lump sum (staffing and non-staffing funding block) to support the fixed costs in running a school. The lump sum is intended to provide financial stability. The current approach does meet the needs of special schools, however there are some drawbacks. The Local Authority has determined an alternative approach to identifying the level of lump sum funding for a special school by using the overall funding calculated by the schools banding funding as a measure, which considers the agreed place numbers and level of pupil's needs.

² This is before considering place number changes for the academic year 2018/19.

This proposed approach recognises the increasing fixed costs of running a larger school by having higher place pupil numbers and complexity of pupils needs.

The key cost drivers and principles identified through the implementation of the formula in 2011/12 for the staffing and non-staffing funding block have been reviewed and costs updated, including engagement with the sector on new costs drivers faced by special schools.

School size categories have been determined for the sector, which build on the work and principles adopted for the group size categories in the current funding formula. The key cost drivers have been adopted consistently across the differing sizes of school categories, but the resourcing requirements for each size of school have been considered to ensure a suitable level of resource is deployed, as the school place numbers and complexity of pupil increases. Incremental steps between school sizes have been adopted with transition points to allow for a more manageable transition.

Financial modelling has identified this as a sensible formula for identifying the category of lump sum funding allocations for the mix of special schools across the county that currently vary in size (place numbers) and level of pupils needs. The majority of responding special schools supported the approach of funding the fixed costs of schools through a lump sum approach. A question was raised whether it would be more suitable to have a formula that is entirely pupil needs led. To ensure accurate funding is allocated across the different special school sizes, and to recognise the fixed and variable costs in operation of schools, the Local Authority maintain the idea that this is the most equitable and efficient approach to funding special schools.

Minimum Funding Guarantee

The Local Authority is required by the regulations to set a minimum funding guarantee³ (MFG) per pupil between minus 1.5% and 0% against the schools existing per pupil baseline. The MFG ensures that no school loses more than a certain percentage per pupil compared to its prior year per pupil budget. The Local Authority propose to apply a 0% MFG to ensure no school loses on a per pupil level when implementing the proposed funding formula in 2018/19. Future MFG levels will be subject to review but will be governed by the government's MFG thresholds set, which will ensure schools facing reductions in funding are applied in a manageable and sustainable way.

All responding schools supported the 0% MFG being applied to protect any school from losing from the changes. Four schools would be protected on the 0% MFG in 2018/19, three of which are social, emotional and mental health (SEMH) schools. A review of SEMH schools provision is to commence shortly with the head teachers, therefore funding changes from the outcome of that review will likely take effect

³ To protect schools from significant budget reductions, the MFG ensures that no school loses more than a certain percentage per pupil compared to its prior year per pupil budget. A negative MFG allows school budget reductions to be set in a more sustainable way.

from 2019/20. For 2018/19, per pupil funding levels remain protected compared to the 2017/18 baseline.

Special Schools Gaining

The Local Authority role is to ensure an appropriate level of resource continues to be allocated to allow special schools to best meet the needs of its pupils in the changing demographics of Lincolnshire special schools. The Local Authority recognises the demands and complexity of pupils needs, and the Local Authority has responded positively to feedback from special schools during this process by reviewing the staff to pupil ratios; creation of band descriptors for pupils having a diagnosis of ASD with challenging and undesirable behaviour, and pupils requiring total dependence despite mechanical and technological aids to access education safely; and, a central resource to provide intervention when supporting placements from breaking down. The financial investment into Lincolnshire special schools before considering place number changes is £1.722m through the proposed implementation of the funding formula. Having a funding formula that is responsive to pupil's needs and school characteristics will support the new strategy and vision for special education in Lincolnshire, and provide schools with the financial security to take on more complex pupils that may otherwise have been placed outside of Lincolnshire special schools.

The Local Authority proposes to allow schools gaining through the proposed funding formula to receive the full gain in year 1 (2018/19) to ensure that the appropriate level of resources is responsive to best meet the needs of its pupils in the changing demographics of Lincolnshire special schools. This was supported by the special schools.

The government has introduced a national funding formula in 2018/19 for high needs funding to Local Authorities moving towards a more formulaic approach. The government has committed to providing a 0.5% funding increase in 2018/19 and 2019/20 to Local Authorities, therefore providing protection for a minimum of two years, and the expectation that incremental changes in funding levels will be applied allowing Local Authorities to manage funding changes in a manageable way. The funding to meet this additional cost has been budgeted for within the High Needs block of the Dedicated Schools Grant.

2. Legal Issues:

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- * Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- * Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- * Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- * Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- * Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- * Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process

The review of bands and descriptors, and the thorough moderation process at a pupil level will ensure the principles of consistency, transparency, equity, efficiency, simplicity and fairness are achieved across all Equality Act areas.

The Local Authority's proposal is to provide MFG protection of 0% in 2018/19 as a result of the refinement to the funding formula, and all special schools gaining will receive the full monetary value of gain in 2018/19 to best meet the needs of its current pupils.

The proposed funding formula will ensure the continued provision of quality education provision and educational opportunities for children with special educational needs. This contributes positively to the advancement of equality of opportunity and the fostering of good relations in particular in relation to the protected characteristics of age and disability.

Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision

Education is central to the wellbeing of young people and has a significant effect on their future health, wellbeing and life chances. The funding proposals enable children in Lincolnshire to continue to receive a good standard of education.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

Issues of crime and disorder have been considered but there are not considered to be any implications in relation to this decision.

3. Conclusion

The Local Authority believe the underlying principles of the formula are strong and fit for purpose, which has been supported by the sector, and therefore do not require a fundamental change, however it is recognised that following engagement with the sector some additions and amendments to the funding formula are necessary to ensure the appropriate level of resources continue to be allocated to allow special schools to best meet the needs of its pupils in the changing demographics of Lincolnshire special schools. The proposed amendments to the funding formula relate to the pupil bands and descriptors, the pupil moderation and a revision of the lump sum funding mechanism.

The vast majority of the special schools sector that responded to the consultation were supportive of the changes, and the additional investment being made into the schools of £1.941m (or 7.5%). The views of the sector for areas of note or development will be considered by the Local Authority, and progressed where required. The Local Authority will continue to keep the funding formula under review in line with best practice.

The outcomes have been considered, and the Local Authority is now in a position to present its latest proposals set out in Appendix A for special schools funding in 2018/19, for Executive Councillor approval on the 23 March 2018.

4. Legal Comments:

The proposed decision is lawful, consistent with the Policy Framework and within the remit of the Executive Councillor.

5. Resource Comments:

The recommendation in the report to support the Local Authority's special schools funding formula proposals for 2018/19 will ensure that the appropriate level of resources continue to be allocated to allow special schools to deploy the resources to best meet the needs of its pupils in the changing demographics of Lincolnshire special schools.

The review of bands and descriptors, and the thorough moderation process at a pupil level will ensure the principles of consistency, transparency, equity, efficiency, simplicity and fairness are achieved.

The funding to meet this additional cost has been budgeted for within the High Needs block of the Dedicated Schools Grant. The government has introduced a national funding formula in 2018/19 for high needs funding to Local Authorities moving towards a more formulaic approach. Lincolnshire is to receive protection funding of c.£5.2m in 2018/19, therefore being clearer of the government's future funding plans in the next funding cycle from 2020/21 will provide the Local Authority with a more informed position of the level of protection and decisions the Local Authority will be required to make. The government has committed to providing a 0.5% funding increase in 2018/19 and 2019/20 to Local Authorities, therefore providing protection for a minimum of two years, and the expectation that incremental changes in funding levels will be applied allowing Local Authorities to manage funding changes in a manageable way.

6. Consultation

a) Has Local Member Been Consulted?

No

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

No

d) Have Risks and Impact Analysis been carried out?

Yes

e) Risks and Impact Analysis

School illustrative financial modelling has been undertaken and shared with all special schools through the Local Authority consultation exercise based on the proposals of the revised special schools formula.

An illustrative school level financial impact of the proposed funding formula using 2017/18 pupil place numbers (with the schools moderated pupil band profile)

enabled a direct comparison to be made against the 2017/18 funding levels, and a school level financial impact on the proposed funding levels for the 2018/19 financial year. The school illustrative allocations will have assisted schools in understanding the funding formula and to help inform their consultation response.

The Local Authority propose to apply a 0% MFG to ensure no school loses on a per pupil level when implementing the proposed funding formula in 2018/19. Future MFG levels will be subject to review but will be governed by the government's MFG thresholds set of minus 1.5% to 0% per pupil protection.

Lincolnshire special schools are gaining overall in 2018/19 through the proposed funding formula by 7.5% compared to the 2017/18 funding levels.

Appendices

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| These are listed below and attached at the back of the report | |
| Appendix A | Special Schools Funding Formula consultation document and school responses. |
| Appendix B | Special School EHC plans Bands and Descriptors. |

7. Background Papers

| Document title | Where the document can be viewed |
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| Schools Forum paper – Special Schools Funding Formula Update (18 January 2018) | http://lincolnshire.moderngov.co.uk/documents/s20933/Special%20Schools%20Funding%20Formula%20Update.pdf |
| Schools Forum paper - Review of Special School Funding (26 January 2011) | http://lincolnshire.moderngov.co.uk/Data/Lincolnshire%20Schools'%20Forum/20110126/Agenda/Document%204.pdf |

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