



Department
for Education

High needs funding formula and other reforms

Government consultation – stage one

Launch date 7 March 2016

Respond by 17 April 2016

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Foreword

Our aim is that all children and young people in England have the opportunity to benefit from an excellent education, and this is no less our ambition for those with special educational needs and disabilities, and those with needs and behaviours that have become unmanageable within a mainstream setting. Building on the foundation of the Children and Families Act 2014, we have the chance to make a real difference to their lives, and are determined to make changes and improvements to the way the system works so that those who provide their education – including schools, colleges and local authorities – can do so effectively and in a way that meets their various special needs.

Good teaching, sound leadership, strong partnership working and co-operation between different agencies are all important ingredients for getting the right provision in place. However, funding clearly also plays a central role. We are now seeking views on far-reaching changes to the funding arrangements which will support our aims for improving the life-chances of our most vulnerable children and young people. The focus of these changes is a move away from an outdated funding distribution that is based on historic spending patterns, towards a fairer distribution more aligned to the needs of children and young people.

Parents have rightly challenged us on why there is such a wide variation in the way their children are assessed, depending on where they live. We think that local decision-making, taking account of parents' preferences for how their children are educated, is the right way forward: teachers and other local professionals working in schools and local authorities are better able to meet with parents and understand their concerns and ambitions for their children. But a fairer and more transparent funding system should promote more consistency in the way local provision is made, and make sure that the local offer delivers the best possible range of services for children and young people with special needs.

We do not expect change to happen overnight, or without central government support. We are therefore planning a carefully phased approach to limit the scope for disruption, and some additional capital funding that will help local authorities invest in the right infrastructure. Where new specialist provision is needed because there are gaps, new free schools can be established. And we want to make sure that mainstream schools, academies and colleges are better equipped to meet the needs of their pupils with special educational needs, disabilities, behavioural problems and medical needs.

This is an ambitious agenda for change that will depend on the co-operation of local authorities, schools, colleges, other providers and all those professionals who do not want to settle for second best in what we can offer children and young people with

special needs. We want to get this right, and are asking for your input as we develop the funding reforms that will underpin this agenda.



Edward Timpson



Sam Gyimah

Introduction

This consultation seeks views on proposed improvements to the way that high needs funding is distributed, and other ways in which we can support the administration of funding for pupils and students with special educational needs (SEN) and disabilities, and for those who are in alternative provision (AP).

Who this is for

It is important that we have views from a range of organisations and individuals involved in providing services for children and young people with special needs, including:

- Local authorities (both finance departments and those leading service delivery)
- Early years providers
- Schools maintained by local authorities, including special schools and pupil referral units
- Academy schools, including special and AP academies
- Free schools, including special and AP free schools
- Multi-academy trusts
- Non-maintained and independent special schools
- Sixth form and general further education (FE) colleges
- Independent specialist colleges (also known as special post-16 institutions)
- Other FE providers
- Head teachers and principals of the above institutions
- Teachers and other professionals dealing with children and young people with special educational needs and disabilities, and with those in AP
- Parents of children and young people with special needs or in AP, and young people themselves
- Organisations representing the above or with a special interest in services for children and young people with special needs or in AP

Issue date

The consultation was issued on 7 March 2016.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team by email on:

HighNeedsFundingReform.CONULTATION@education.gsi.gov.uk.

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

The response

The results of the consultation and the Department's response will be published on GOV.UK later this year.

About this consultation

We are consulting in two stages. The first phase covers high level principles, key proposals and options, as follows:

- an improvement to the way that high needs funding is allocated to local authorities, on the basis of a formula consisting of a number of factors. We would welcome views on whether the factors are appropriate, and on the overall design of the formula. We would also welcome views on how a national high needs funding formula should be phased in, so that we avoid disrupting provision already commissioned for children and young people, and on the ways in which we are intending to help authorities reconfigure provision and meet the cost pressures they face. Capital funding will be available to help create additional specialist places;
- improvements to the funding arrangements and guidance to help local authorities, early years providers, mainstream schools, colleges and other institutions with students aged 16-25 who have SEN and disabilities. We would welcome views on whether what we are proposing will:
 - i. help local authorities, early years providers, schools, colleges and other institutions understand their responsibilities for

meeting the needs of children and young people with SEN and disabilities, including those with high needs, and to discharge those responsibilities effectively; and

- ii. encourage better partnership between local authorities and institutions in discharging their respective responsibilities under the Children and Families Act.

In the second phase of this consultation, having taken into account the views expressed in this consultation on the key principles and building blocks of the formula, we will set out detailed proposals on factor weightings, the impact for local authorities, and how year-on-year changes to funding would be carefully phased through transitional protection. And we will consult on the detail of the other proposed improvements.

Apart from including the distribution of funding for AP in the national to local government funding formula, we are not at this stage proposing any changes to the way that AP is funded locally, but are keeping this under review.

We are seeking views alongside this on proposals to introduce a national funding formula for schools.

Respond online

To help us analyse the responses it is important that you use the online system wherever possible.

Other ways to respond

If, for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email it or post it.

By email

To: HighNeedsFunding Reform.CONULTATION@education.gsi.gov.uk

By post

To: Funding Policy Unit
Department for Education
Bishopsgate House
Feethams
Darlington
DL1 5QE

Deadline

The consultation closes on 17 April 2016.

Chapter 1: Context for the proposed changes

The SEN and disability context

1.1 To improve provision for children and young people with SEN and disabilities, the coalition government introduced a significant set of reforms through the Children and Families Act 2014¹, which came into force from September 2014. This law, and the statutory code of practice² produced in 2014 and updated in 2015, is now being implemented across the country, and is beginning to make a real difference to the way that needs are assessed and special provision is accessed.

The Children and Families Act 2014

The Children and Families Act 2014 and SEN and disability code of practice introduced a new framework for how the needs of children and young people up to the age of 25 should be met, by local authorities and institutions of all kinds – early years providers, schools and colleges – and a set of key reforms including:

- the replacement of statements of SEN and post-16 learning difficulty assessments (LDAs), by education, health and care (EHC) plans. By 2018 all children and young people who had a statement of SEN or an LDA should have gone through a transfer review and, if required, been issued with an EHC plan;
- a new focus on identifying outcomes in EHC plans, and preparing young people for adulthood;
- new responsibilities for FE colleges, and other specialist providers on an approved list, to admit children and young people and meet their needs if they are named on an EHC plan;
- a duty for local authorities, health and social care services to jointly commission education, health and care provision for 0-25 year old children and young people with SEN and disability, both with and without EHC plans;
- a duty on local authorities to publish a local offer that sets out in one place information about the provision available for children and young people who have SEN or are disabled;
- a new mediation process to help resolve disputes with parents and young people about EHC assessments and plans, and new statutory protections for 16-25 year olds, including the right to request mediation and have recourse to the independent SEN and disability tribunal.

¹Legislation, '[Children and Families Act 2014](#)', 2014

²Department for Education '[Special Educational Needs Code of Practice: 0 to 25 years](#)', May 2015

- 1.2 Implementation of these new arrangements also offers the opportunity of developing new partnerships and new ways of providing support so we can realise our vision for children and young people with SEN and disabilities, enabling them to reach their full potential. This vision is the same as that for all children and young people – that they achieve well in their early years, at school and in college; and that they find employment, lead happy and fulfilled lives, and experience choice and control. We are seeing already some of the benefits of these wide-ranging reforms in some areas. But we also know that to embed these reforms at every level, it will take time and effort, from leaders in local authorities, from teachers and teaching assistants in the classroom, and from many others, including health professionals, all working together with parents and young people.
- 1.3 Funding changes have played a part in supporting this progress. For example, one of the important reforms under the Act is the creation of a system that covers children from their birth to when they reach the age of 25. The coalition government's funding reforms introduced the concept of a high needs block of funding within the overall dedicated schools grant (DSG), and adjusted the scope of the high needs funding block to reflect that expanded age range.
- 1.4 The previous high needs funding reforms from 2013 also included changes to the way that schools, colleges and other institutions received their core funding to meet the needs of all their pupils and students, including those with SEN and disabilities, and the funding changes included the concept of top-up funding for those pupils and students with high-cost SEN and disabilities, and those in AP who are not in school for various reasons.

The alternative provision context

- 1.5 Funding for AP is primarily provided to enable local authorities to discharge their duty to provide a suitable education for all the children of school age in their area who cannot attend school. The reasons for their need of AP vary. Most AP provided by local authorities, either directly or through pupil referral units or other providers, is for pupils who have been permanently excluded by a school. Other AP is for those temporarily excluded or who need interventions to help them reintegrate back into school. There is also a form of AP for those with medical or health needs, often provided by hospital schools or other institutions associated with health care facilities.
- 1.6 AP is funded from the high needs funding block because it is generally more expensive than mainstream school provision, with teaching in small groups and

more personalised, and a set of needs that usually require more specialist support.

- 1.7 We are currently considering options to make AP more rigorous and will be publishing our plans in due course. In the light of this, we will keep under review how the different kinds of AP are funded to make sure that the financial arrangements support any changes in delivery. In particular, we will continue a constructive dialogue with schools and academies using and providing AP; those seeking to develop multi-academy trusts to deliver forms of AP, including hospital education; AP free schools and those proposing to establish AP free schools; and local authorities.

What high needs funding is used for

- 1.8 The majority of high needs funding is for children and young people with SEN and disabilities. The high needs funding block is allocated to local authorities as part of their DSG. Local authorities decide how that funding is used. According to the latest local authority budget statements, and direct Education Funding Agency (EFA) expenditure records, out of total high needs expenditure of £5.3 billion:

- about 89% (£4.7 billion) is spent on SEN and disability placements and services;
- 10% (about £0.5 billion) is spent on AP; and
- a further 1% (about £70 million) of the total high needs expenditure is spent on hospital education (a type of specialist AP for those children and young people in hospital or elsewhere because of their medical needs).

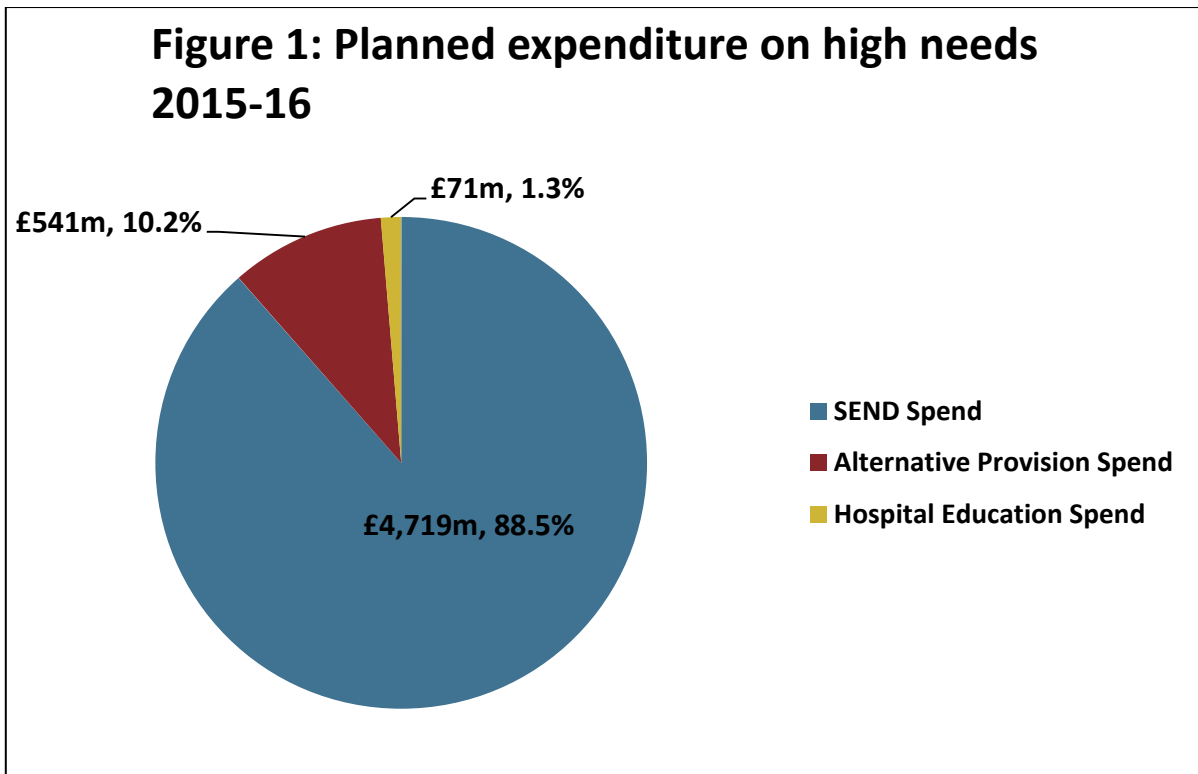


Figure 1: Shows how the current high needs expenditure is broken down.

Sources: Education Funding Agency, '[Section 251: 2015 to 2016](#)', September 2015
 Education Funding Agency, '[Dedicated schools grant \(DSG\) 2015 to 2016](#)', February 2016

1.9 High needs expenditure includes:

- funding for places in specialist and post-16 institutions (e.g. special schools, special post-16 institutions and pupil referral units);
- top-up funding for individual pupils and students with high needs, including those in mainstream schools and young children in their early years; and
- services that local authorities provide directly, or through contracts or service level agreements with others – for example, specialist support for pupils with sensory impairments, or tuition for pupils not able to attend school for medical or other reasons.

1.10 Part of the high needs block is retained by the EFA for the place funding paid to colleges and other post-16 institutions. Some of the place funding is included in local authorities' initial DSG allocation and then deducted by the EFA to pay the funding direct, for example to academies.

1.11 Pupils and students who receive support from local authorities' high needs budgets include:

- children aged 0 to 5 with SEN and disabilities, whom the local authority decides to support from its high needs budget. Some of these children may have EHC plans;
- pupils aged 5 to 18³ with high levels of SEN in schools and academies, FE colleges, special post-16 institutions or other settings which receive top-up funding from the high needs budget. Most, but not all, of these pupils have either statements of SEN or EHC plans;
- those aged 19 to 25 in FE and special post-16 institutions, who have an EHC plan and require additional support costing over £6,000;
- pupils aged 5 to 16 placed in AP by local authorities or schools.

³ Including students who turn 19 on or after 31st August in the academic year in which they study.

Chapter 2: Why changes are needed

The case for change

- 2.1 The previous coalition government targeted additional funding to local authorities with schools that were the least fairly funded, through the introduction of minimum funding levels. At the same time, they acknowledged that further changes to the distribution of high needs funding were required, and commissioned research to provide a better evidence base for such changes. The results of that research, by Isos Partnership (“Isos”), were set out in a report that we published in July 2015⁴. We also published at the same time a summary of the responses to a wider call for evidence⁵.
- 2.2 Isos made 17 proposals on how the SEN funding system might be improved in future. These fall into 3 broad categories:
- improvements to the way funding is allocated to make it fairer and more transparent, and to make sure that it is better targeted to where the needs are. The proposals include that the department considers a more formulaic approach to distributing high needs funding from national to local level;
 - better communication about how the system is intended to work, and to highlight effective practice. The proposals cover what local and national government might do to clarify expectations and to achieve greater transparency;
 - proposals to enable better decision making by frontline professionals, both those in local authorities responsible for commissioning SEN provision and those in schools and colleges who need to plan how to make the provision for their children and young people with SEN.
- 2.3 Having considered this research report and the evidence received, we are convinced that there is more to do to make sure that the funding system fully supports what we are now asking of local authorities, schools, early years providers, colleges and other institutions to secure good quality provision that meets the needs of children and young people. In particular, the distribution of funding between local authorities, based on historical spending patterns, is increasingly misaligned to needs across the country. Too often the high needs

⁴ Parish N., Bryant B., Isos Partnership, '[Funding for young people with special educational needs](#)', July 2015. This research report has been published again on the consultation webpage.

⁵ Department for Education, '[Funding for children and young people with SEND](#)', July 2015

funding local authorities receive does not reflect the SEN provision and support they need to commission.

2.4 The research and analysis carried out by Isos showed that the current funding distribution between local authorities does not correlate well with various measures of need. Figure 2 shows how variable the picture is across the country: this is an illustration included in the Isos report which has been updated with more recent data. Such variations can also be seen using other measures of need.

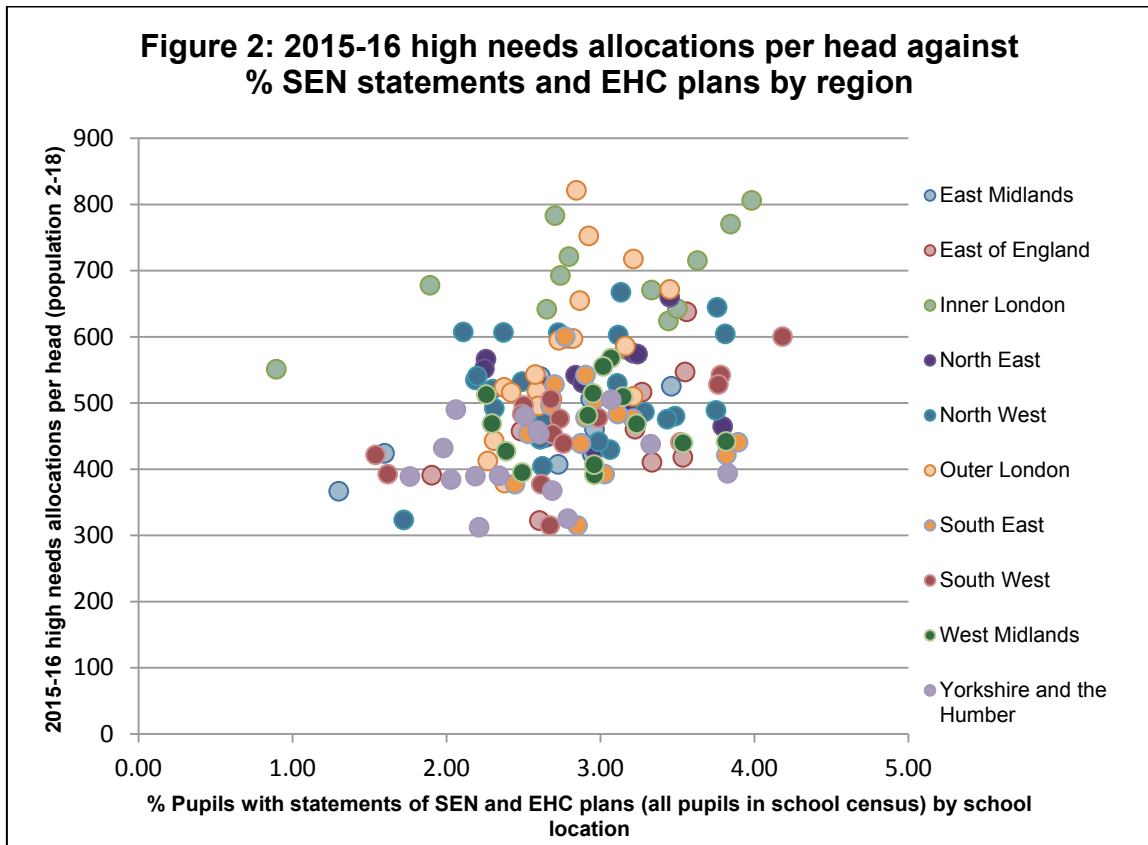


Figure 2: Shows how high needs allocations per head of population vary significantly between local authorities in which the proportion of pupils with statements of SEN or EHC plans is the same or very similar.

Sources: For % pupils with statements, Department for Education, '[Special educational needs in England: January 2015](#)', July 2015

For high needs allocations, Education Funding Agency, '[Dedicated schools grant \(DSG\) 2015 to 2016](#)', February 2016

For 2-18 population figures, Office for National Statistics, '[Annual Mid-year Population Estimates: 2014](#)', June 2015

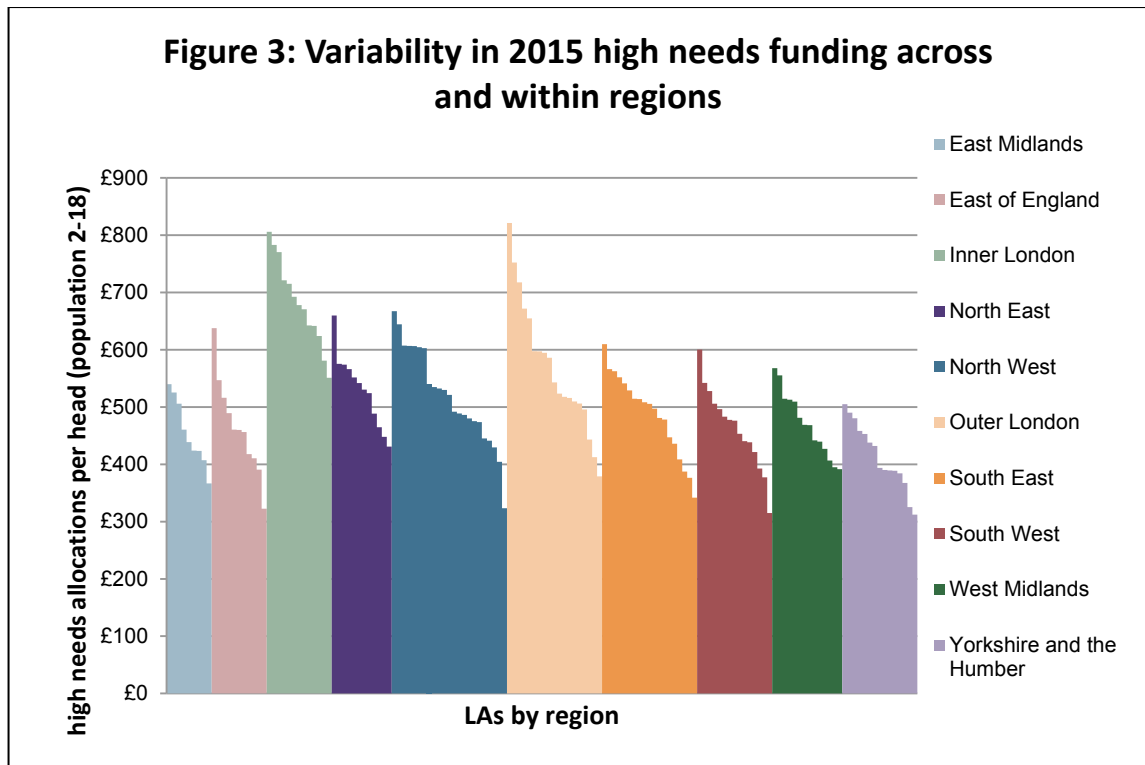


Figure 3: shows the range of allocation levels per head of population, even within regions, excluding City of London and Isles of Scily.

Sources: For high needs allocations, Education Funding Agency, ['Dedicated schools grant \(DSG\) 2015 to 2016'](#), February 2016
 For 2-18 population figures, Office for National Statistics, ['Annual Mid-year Population Estimates: 2014'](#), June 2015

- 2.5 The current spending levels have evolved partly as a result of the range of provision which each local authority has developed with the schools, colleges and early years settings in its area. There is considerable variety in the way different areas make special educational provision, organise their SEN services and spend their high needs budget. For example, some areas take a highly inclusive approach (with considerable discretionary spend on central services or additional funding for mainstream schools), while others have opted for more specialised provision (with more funding going to special schools).
- 2.6 The Isos research showed that children and young people with a similar description of their needs and circumstances, might be assessed and attract very different levels of funding in different local authorities.

Isos asked a sample of 12 local authorities to describe the special educational provision they would offer (and the costs they would expect to pay for) in a series of hypothetical examples.

For example, in the theoretical example of Peter – a Year 4 child with autism, severe learning difficulty and challenging behaviour – all authorities said he would be placed in a special school but the range of top-up funding that the school would be paid for him, depending on which local authority or school was asked, ranged from £2,000 to £25,000.

- 2.7 It is difficult for parents to accept that their options and levels of support depend more on where they live than on the needs of their child.
- 2.8 Although a degree of local variation is to be expected when assessment of need is carried out locally, some local authorities have argued persuasively that the distribution of high needs funding does not support local authorities to secure good quality special educational provision that meets the needs of children and young people. We are also concerned that others may be spending more than is needed to achieve good outcomes. Addressing this unfairness is our priority.
- 2.9 In November 2015, the spending review announcement confirmed protection of high needs funding as part of the overall protection of the national schools budget, enabling us to reflect demographic growth. Accordingly, we allocated over £90 million additional high needs funding in the distribution of DSG for 2016-17. But we also need to make sure that the distribution of high needs funding not only reflects growth, but also more closely matches local authorities' need to spend.

What we are proposing

- 2.10 We have concluded that the current funding distribution is not fair to children and young people with high needs across the country, because it directs money to the local authorities with the highest historic spending, not the highest current needs. A formulaic method of distributing high needs funding would represent a clear improvement on the current situation.
- 2.11 We are therefore proposing, from 2017-18, to move to a distribution of high needs funding from central to local government that is more formula-driven, using proxy indicators of need, rather than only using historic spending patterns. This should include funding for both SEN and disability provision and

AP. The main proposals are set out in chapter 3, and we have also published a separate “High needs funding consultation: technical note”, to explain the data we propose to use and some of the technical adjustments that would be needed to reflect the movement of pupils and students between local authority areas.

2.12 Second, in chapter 4, we are proposing some further improvements to the current funding arrangements at local level, including changes to the way funding is distributed to various types of institution.

2.13 The reforms we are proposing in this consultation are underpinned by the following **7 principles**:

- **A funding system that supports opportunity**

The funding system should support local authorities and institutions in extending opportunities for all children and young people, including those who need additional support to achieve improved outcomes. In the case of high needs funding we need to consider the impact on particular groups of pupils, some of whom are the most vulnerable in our society. The funding system should support educational excellence everywhere.

- **A funding system that is fair**

Funding should be allocated on the basis of objective measures or factors which drive costs, or act as appropriate proxy indicators for the need to spend.

- **A funding system that is efficient**

Funding should support the right behaviours in local authorities, institutions and across the system as a whole. The changes should support provision that delivers the best outcomes, and does so in the most efficient way. We intend that this next period of funding reform will provide an opportunity to gather examples of good practice and innovation that can be shared more widely to help all areas improve.

- **A funding system that gets funding to the front line**

The 2015 spending review protected the national schools budget in real terms. Every pound of that budget matters: the education budget must work harder than ever to ensure that it delivers educational excellence everywhere. Funding should be delivered to the level at which spending decisions can be made most effectively and efficiently, so that those decisions – whether by local authorities, school head teachers, or others – secure suitable provision and achieve good value for money.

- **A funding system that is transparent**

Funding calculations should be easy to understand and justify. There should be more transparency in the way that funding is allocated, at each level. It should be clear why a local authority or institution is funded the way it is. In a system that relies on local assessment and decisions about how needs are met – mainly taken at institution or local authority level – it is not necessary or desirable to have complete consistency across the country. Local authorities, working with parents, schools and other providers, will devise different approaches that reflect not only the diverse needs of children and young people with SEN and disabilities, but also some variation in local circumstances. But we should move towards funding each local authority on an objective basis that reduces the extremes of local variation, and make sure that we do so in an open and transparent way.

- **A funding system that is simple**

Funding streams should be combined as far as possible, and formulae should not be too complex but reflect relevant factors; although we should be mindful of the need to balance simplicity with accuracy.

- **A funding system that is predictable**

A smooth transition to new funding levels is essential. Funding changes from year to year should not be too great or unpredictable, so that local authorities and institutions can plan ahead and manage changes. It is important that they look ahead and plan for future needs, whilst making sure that they do not disrupt the provision for existing pupils and students. We are proposing changes that would in some cases take some time to be fully implemented, and are more about shaping provision for future cohorts of children and young people.

Question 1

Do you agree with our proposed principles for the funding system?

2.14 For some local authorities and institutions, the degree of change will be more significant than for others. In any redistribution of funding there will be some who receive more funding and others who will need to manage with less funding than they are used to receiving. This will be challenging at a time when authorities and institutions are balancing other cost pressures. Help will be available in the form of funding for infrastructure changes and other restructuring necessary to reduce ongoing revenue costs. A range of additional

guidance and support will also be made available to help local authorities and schools make best use of the funding they have.

2.15 We recognise that this will be a major change for some local authorities, and will need to be carefully phased in over a number of years. We believe it would be counter-productive to force change too quickly: we acknowledge the value of existing provision and the importance of avoiding disruption to pupils and students in that provision.

Chapter 3: Distribution of high needs funding to local authorities

Structure of the high needs funding system

- 3.1 Per-pupil costs for children and young people with high needs vary considerably, because of the wide range of needs that the high needs arrangements cover, and the different kinds of support required. The statutory EHC assessment process is designed to bring teachers, SEN co-ordinators (SENCOs), educational psychologists and other professionals together with parents, so that EHC plans can be produced, specifying the outcomes that are sought for each individual child, based on their individual needs and characteristics.
- 3.2 Local authorities have an important dual role. They are responsible both for assessing individuals' SEN and for commissioning provision to meet those needs. They are also responsible for making best use of the resources in the high needs budget. This is in line with the Government's policy of delegating decision-making to the lowest possible level, whereby local authorities and individual institutions are responsible for determining how best to meet SEN, and using their resources appropriately. In managing the statutory assessment and planning process, it is important that decisions taken as a result represent an efficient use of resources. We are therefore proposing a system that continues to distribute the majority of high needs funding to **local authorities** rather than directly to schools and other institutions.

Question 2

Do you agree that the majority of high needs funding should be distributed to local authorities rather than directly to schools and other institutions?

- 3.3 Some have argued that high needs funding should be tied directly to the statutory assessment and planning process. This process, however, is not intended to pin down with absolute precision the inputs, and therefore the resources, required to achieve the desired outcomes: that is the job of the teachers and other professionals working day-to-day to ensure that every child and young person achieves to their full potential.
- 3.4 Although it would be possible to link high needs funding to the number of statements of SEN and EHC plans which local authorities have issued, we do not propose to do so. We want to avoid creating perverse incentives to identify

a higher level of need amongst children and young people than is appropriate, in order to attract more funding. In addition, local authorities can provide high needs funding without going through the statutory assessment process (for example to meet urgent need) and we do not wish to remove this discretion. We are therefore proposing a high needs formula that is based on **proxy measures** of need, not the assessed needs of individual children and young people.

Question 3

Do you agree that the high needs formula should be based on proxy measures of need, not the assessed needs of children and young people?

High needs formula design

- 3.5 Our starting point for the design of the formula has been the research and analysis carried out by Isos. They carried out extensive analysis to determine which, of a large number of possible indicators and shortlist of 24, had the potential to be the most powerful predictors of SEN and disability. This analysis enabled them to identify two possible preferred options: a formula with 9 indicators and one with 5.
- 3.6 On balance they proposed a national to local authority distribution of high needs funding through a formula composed of 5 factors, as it would be easier to understand and implement, and could be updated as population and demographics changed. The 5 factors relate to health, disability, low attainment and deprivation. We have looked carefully at the results of the analysis carried out, tested it against our overall objectives for simplicity and transparency, and are now proposing a variant of the 5 indicator formula.
- 3.7 Isos reported that for some of the indicators there were alternatives that could be considered without compromising the strength of the correlation. Accordingly, we have considered these, whilst ensuring that the factors remain relevant, that they correlate with appropriate measures of need, and that the data are available and accurate enough. And we have looked at how the movement of pupils and students with high needs who live in one area, but attend school or college in another, might also be reflected in a formula, as well as how geographical cost differences should be taken into account. We have also made specific formula proposals for the elements of high needs funding that cover AP.

3.8 Our conclusions are set out below, with more detail in the separate technical note included with this consultation. Figure 4 below provides an overview of our proposals for the main formula factors.

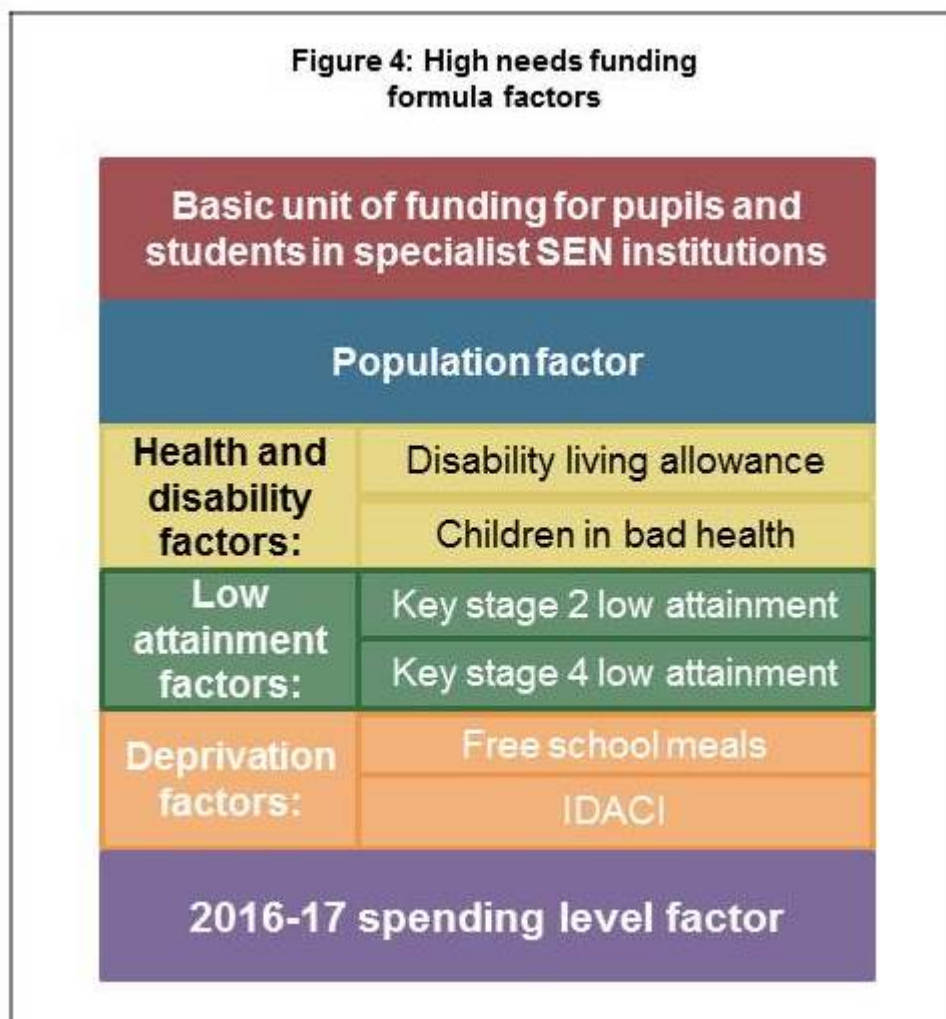


Figure 4: Illustrates the main formula factors that would be in the proposed formula

SEN and disability funding

3.9 The proxy indicators that Isos proposed for a high needs formula, based on their correlation, individually and in combination, with various measures of need relating to SEN and disabilities are:

- a. an indicator of low attainment, reflecting that there is a strong correlation between some forms of SEN and low attainment;
- b. two indicators relating to children’s health and disability, given that need for extra support often relates to physical or mental ill-health or the level of disability; and

c. two indicators relating to deprivation.

Low attainment

3.10 There is a strong correlation between low attainment and SEN, which is why low attainment data is often used in local schools funding formulae as a proxy indicator for SEN.

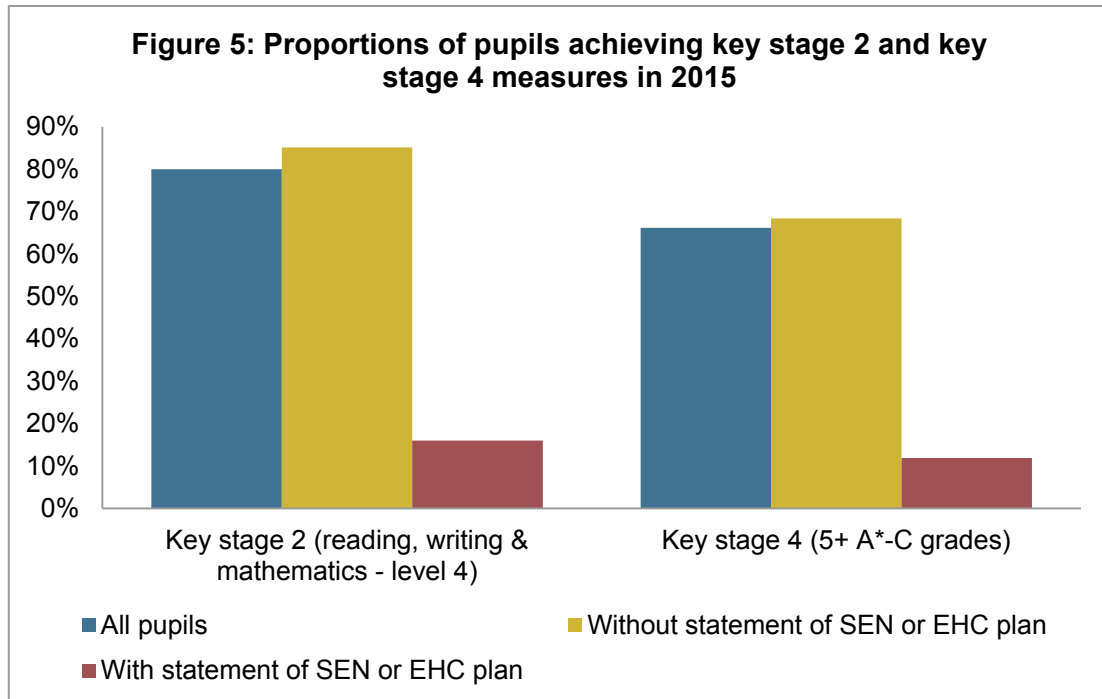


Figure 5: shows, nationally, the attainment of children with statements of SEN or EHC plans at the end of key stages 2 and 4, compared with the attainment of those without statements or plans.

Sources: Department for Education, ['National curriculum assessments at key stage 2: 2015 \(revised\)'](#), December 2015
Department for Education, ['Revised GCSE and equivalent results in England: 2014 to 2015'](#), January 2016

3.11 Isos proposed using a key stage 4 indicator – the number of pupils not achieving 5 A*-C grades at GCSE. They argued that using two attainment indicators, at the end of key stage 2 and 4, did not add much to the formula. However, as the data sets for these indicators are readily available and regularly updated, we think that it would be more understandable to use both primary and secondary indicators.

3.12 We also think that a lower level of attainment is more likely to correlate with pupils with high needs, for example those not achieving 5 A*-G GCSEs. Of those pupils not achieving 5 A*-C GCSEs, 10% have statements of SEN or EHC plans; and of those not achieving 5 A*-G GCSEs, 37% have SEN

statements or EHC plans⁶. This increase in percentage shows that the lower level of attainment would be a better indicator of those pupils with high needs.

- 3.13 We therefore propose to use pupils **not achieving level 2 in reading** at the end of key stage 2 (the skill that is most likely to hold children back from attainment in other areas such as writing or maths) and pupils **not achieving 5 A*-G GCSEs** at key stage 4, or equivalent standards as changes are made.
- 3.14 The precise low attainment data that will be available, and the level which would trigger additional funding, will change as reforms to accountability and assessment policy take effect. For example, the key stage 2 factor would need to reflect the new key stage 2 tests and increase in the expected standard which is due to take effect this year. We will publish further proposals for revising this factor in due course.

Health and disability

- 3.15 Isos suggested that we use “children not in good health” population census data and disability living allowance (DLA) data as indicators of health and disability. Their research found that these added more within a combined group of 5 low attainment, health and disability and deprivation indicators than other alternatives such as low birth weight data. We have concluded that the **children not in good health** and **DLA** indicators provide a good correlation with the health and disability aspects of SEN, and should form part of the formula.

Deprivation

- 3.16 Isos’ analysis showed that there is also a correlation between areas of deprivation and high levels of need relating to SEN. Eligibility for free school meals (FSM) is used in local schools funding formulae and in the allocation of pupil premium grant as a deprivation indicator, and is one of the indicators proposed by Isos. They also suggested using the children in poverty indicator, while noting that the income deprivation affecting children index (IDACI) measure used in local schools formulae was, at the time of their research, still based on data from 2010. We propose to use both FSM and IDACI in the schools national funding formula.

⁶ Department for Education, ['Revised GCSE and equivalent results in England: 2014 to 2015'](#), January 2016

- 3.17 Pupils with high level SEN are twice as likely to be eligible for (and claiming) FSM as other pupils. The latest published statistics indicate that 32% of pupils with statements of SEN or EHC plans are eligible for FSM. This compares to 15% of the overall pupil population that is eligible for FSM⁷. We have also taken into account the fact that the IDACI measure has recently been updated, since Isos reported.
- 3.18 We are therefore intending to use two deprivation measures: one would be **pupils eligible for FSM**, and the second the updated **IDACI** measure. This aligns with the deprivation factors being proposed for the schools national funding formula.
- 3.19 We consider the Ever6 FSM measure (identifying all pupils who have been eligible for FSM at any time in the last 6 years) to be the most appropriate pupil-led measure of deprivation for a school level distribution formula. As the high needs formula would use FSM data to reflect the overall characteristics of an area rather than an individual school, and given the strong correlation between Ever6 FSM and the latest FSM data at area level⁸, it would be simpler for a local authority level distribution to be based only on the cohort of pupils eligible for FSM at the time of the relevant school census.
- 3.20 The parallel schools national funding formula consultation includes a discussion of changes that may be needed to the way that IDACI is used to distribute funding (see chapter 2, paragraphs 2.18 to 2.22). We would adopt the same broad approach for both high needs and schools formulae.

Other factors

- 3.21 We are also proposing to include a substantial child population factor to reflect that within any size of population there is a minimum number of children and young people with high-level SEN and disabilities. Apart from in 2 London local authorities, the percentage of all pupils with a statement of SEN or EHC plan is never less than 1%⁹.
- 3.22 We propose to include a factor based on the **number of children and young people in the 2 to 18 age range** (as the age group most likely to be supported

⁷ Department for Education, '[Special educational needs in England: January 2015](#)', July 2015

⁸ We have analysed the following FSM and Ever6 FSM data sets and at local authority level there is a very strong alignment between the two rates – e.g. a simple regression analysis across the 150 LAs shows that almost 97% of the variation in Ever6 numbers can be explained by the FSM numbers – which means that there would be no significant difference if either set was used as a formula factor for distribution of high needs funding to local authorities. Sources: Education Funding Agency, '[Pupil premium: funding allocations 2015 to 2016](#)', January 2016; and Department for Education, '[Schools, pupils and their characteristics: January 2015](#)', July 2015

⁹ Department for Education, '[Special educational needs in England: January 2015](#)', July 2015

from the high needs funding, and given that childcare and educational participation in the 0 to 2 and 19 to 25 age ranges is likely to be much less). Increases in population from year to year would be reflected in increases in allocations to local authorities under the formula.

- 3.23 All the above factors relate to children and young people with high needs resident in the local authority area, as the majority of high needs funding is allocated by authorities for these residents. Isos rightly identified that we would need to carry out some more detailed modelling, because some of the high needs funding allocated to local authorities is used by those authorities to fund the schools in that authority, irrespective of where the pupils come from. Indeed, many of the concerns about the current system raised by local authorities have arisen because of this dual purpose – some funding that is based on where the child or young person lives, and other funding that is for institutions – and the lack of clarity about the adjustments necessary.
- 3.24 We are therefore proposing to include a formula factor that provides each local authority with a **basic pupil/student entitlement** amount for each child or young person in a special school, special academy or special post-16 institution that is funded from the high needs funding block. This would be at a similar level to the pre-16 pupil-led funding that local authorities are allocated for their mainstream schools and academies, and the basic entitlement that schools and colleges receive through the post-16 national formula. The remainder of the £10,000 per place funding for institutions would be provided from within local authorities' total high needs funding allocation, continuing the flexibility that we have given them in deciding how many places are to be funded in 2016-17.
- 3.25 This means we would need to make a series of **adjustments** to make sure that the funding allocations were fair to authorities that had more pupils in the places they had funded than the pupils resident in their authority area, or vice versa. In other words, the funding formula would compensate local authorities that were net “importers” of pupils and students from other areas into their schools, academies and colleges. Similarly, the formula would make adjustments in the case of authorities that were net “exporters”. Without such adjustments, the formula would not take sufficient account of the different costs of local authorities that were either net “importers” or net “exporters”.
- 3.26 The per pupil/student amounts would be determined each year on the basis of pupil and student numbers from the prior academic year. These would be collected through the school census for special schools and academies (in the same way that pupil numbers are determined for the per pupil element of the schools funding formula) or individualised learner record (ILR) for special post-16 institutions. The other adjustments would use the school census and ILR to

identify those pupils for whom the institutions receive top-up funding. More information about these proposed adjustments is set out in the technical note (paragraphs 9-16).

Alternative provision funding

3.27 Of the formula factors outlined above, those that are most relevant to AP (excluding hospital education) are overall pupil population and deprivation. Areas with higher proportions of pupils with FSM are likely to have higher proportions of excluded pupils: 0.06% of all pupils have been permanently excluded, but that percentage goes up to 0.18% in the case of pupils eligible for FSM. Similarly the 10% of schools that are in most deprived areas according to the IDACI measure permanently exclude 0.09% of all their pupils, whereas the 10% of least deprived schools exclude 0.04%. We see a similar pattern in the percentage of fixed term exclusions which falls from 4% in the most deprived areas to 2.5% in the least¹⁰. We therefore propose to use the **population** and **deprivation** factors in the allocation of funding for AP.

Question 4

Do you agree with the basic factors proposed for a new high needs formula to distribute funding to local authorities?

Hospital education funding

3.28 We are exploring the possible use of hospital inpatient data to help inform the distribution of funding for hospital education to local authorities, and in particular to reflect year-on-year changes that impact on the number of children and young people for whom hospital education is provided. A similar method could be used to allocate funding to multi-academy trusts operating hospital schools. For the time being, however, we propose to continue to distribute hospital education funding based on information about local authorities' and academies' **current spending** levels, and any adjustments needed from year to year to reflect changes in hospital provision.

¹⁰ Department for Education, '[Permanent and fixed-period exclusions in England: 2013 to 2014](#)', July 2015

Question 5

We are not proposing to make any changes to the distribution of funding for hospital education, but welcome views as we continue working with representatives of this sector on the way forward.

Area costs

3.29 To reflect the higher costs in some parts of the country, we are proposing to use an area cost adjustment in the same way as in the mainstream schools formula. The schools document suggests two possibilities, one of which is based simply on a general labour market cost factor, while the other (“hybrid”) includes the relative costs of teachers’ pay in particular areas of the country. This is explained in more detail in paragraphs 2.57-2.62 of the schools national funding formula consultation document. For the high needs funding formula we could use the hybrid adjustment set out there. Alternatively, we could introduce a modification to the hybrid adjustment to reflect the different proportions of expenditure on teaching and non-teaching staff in special schools and other specialist provision, to reflect the fact that such settings typically employ more teaching assistants and other non-teaching staff than mainstream schools and colleges. Or we could use the general labour market measure.

Question 6

Which methodology for the area cost adjustment do you support?

Managing a smooth transition

3.30 The bulk of local authorities’ high needs funding is for special educational provision for individual pupils and students. In many cases placements are made for a number of years. Sudden changes to high needs budgets could prompt local authorities to make disruptive changes to the support for the most vulnerable children and young people. Introducing changes gradually is a key priority, so that the special provision in existing settings (reflected in current spending levels) can be maintained where necessary. We therefore propose to include an element of current spending on SEN in the national formula, based on **2016-17 planned spending levels**, for at least the next five years, which would give local authorities time to plan and implement infrastructure and other changes in future provision that can benefit children with SEN coming into the system.

- 3.31 At the end of that five year period, we propose to review the formula on the basis of further research on the costs and benefits of different types of provision, the impact of the changes already made, and the further challenges that we might anticipate (e.g. improved medical diagnosis and treatment). This would inform us better before we consider reducing this amount which will by then reflect past spending.
- 3.32 Local authorities have also developed different ways of managing AP: some have delegated much of the funding to schools; others have provided comprehensive central services and pupil referral unit provision for their schools. As we move towards national formulae for schools and high needs, local authorities will need time to discuss the implications of this for the way that AP is organised, and to develop with their schools an improved offer that engages young people and raises standards. We are therefore proposing to include an element of **2016-17 planned spending** on AP for at least the first five years as well.
- 3.33 We intend to carry out an exercise with local authorities during March and April to get an accurate amount of planned spending in 2016-17 on which this factor can be based.

Question 7

Do you agree that we should include a proportion of 2016-17 spending in the formula allocations of funding for high needs?

- 3.34 We are also proposing to provide an overall protection that limits any year-on-year reductions for each local authority. There would be an overall **minimum funding guarantee** that would not see local authorities' high needs funding reduced by more than a specified percentage in each year, so that they have time to plan ahead.

Question 8

Do you agree with our proposal to protect local authorities' high needs funding through an overall minimum funding guarantee?

High needs formula detail

3.35 Figure 6 illustrates how a formula based on these building blocks would work. A separate technical note sets out more detail on the definition and source of the data we are proposing to use, how the data would be incorporated into the proposed formula, and how the different elements of the formula work together.

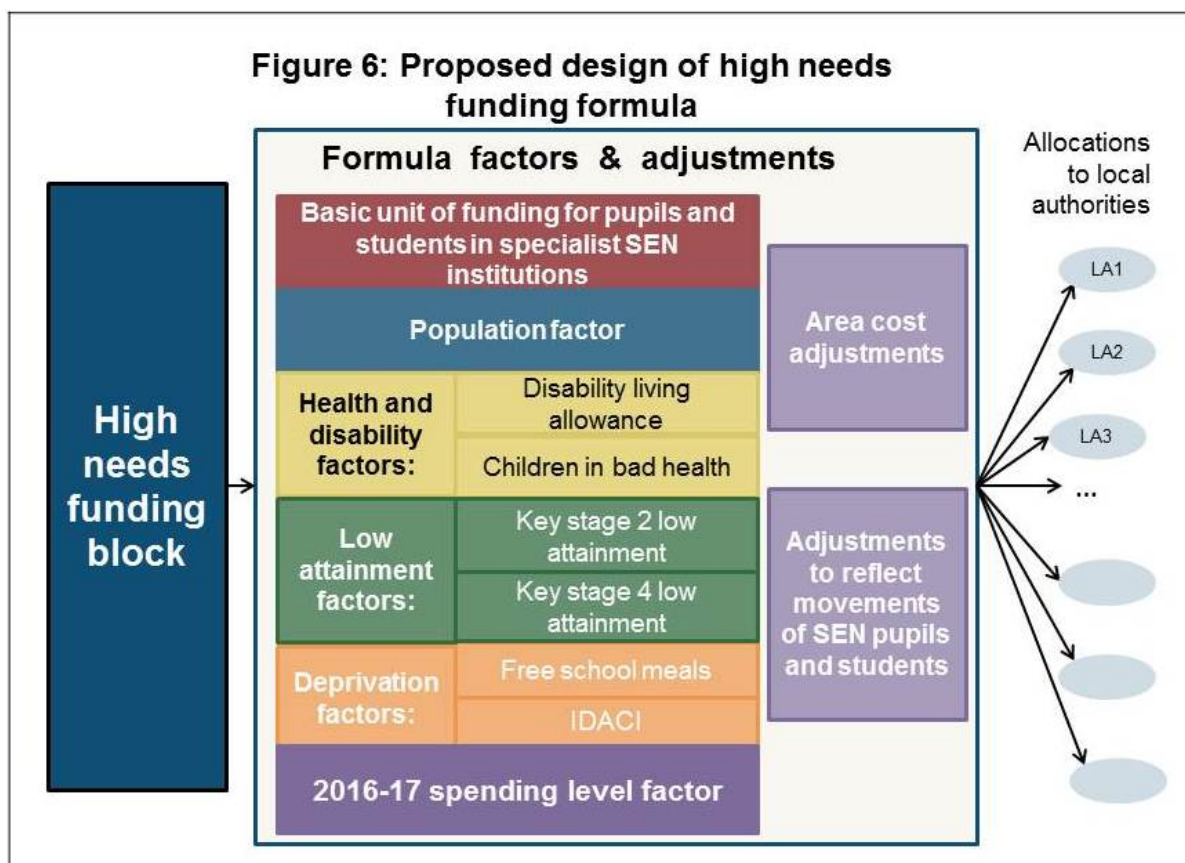


Figure 6: illustrates how a formula based on these building blocks would work.

3.36 This first consultation is seeking views on the principles and building blocks of the formula, and the proposed funding formula factors. Taking into account this consultation, and using the most up to date information, we will then consult on proposals for weightings and values for the different formula factors. We will also be able to illustrate the impact on each local authority of allocating high needs funding using the proposed formula, using an agreed 2016-17 baseline with which to compare any new formula allocations. As indicated above, this information will be collected from local authorities during the consultation period.

Reviewing and developing high needs provision

- 3.37 Because local authorities use their high needs budget to commission specialist provision, changes to the funding allocated will impact on the services commissioned. In particular, some local authorities will need to consider why in seemingly comparable areas the spending differs without any apparent detriment to the achievement of good outcomes for the children and young people. They will then need to take steps to manage their spending in a way that neither adversely affects the provision for existing pupils with high needs, nor affects the quality of provision for future cohorts. Information about local authorities' historic and current spending levels will help them compare their spending against other authorities with similar characteristics.
- 3.38 Under our proposals for allocating the DSG in future years, the scope for local authorities to move funding from the majority of pupils in mainstream schools to meet the costs of pupils with high needs, as many have done in the past, would be limited, so that schools receive the funding that the national formula identifies for them. This would make it more important for local authorities to understand what is driving their local high needs expenditure levels and how they can control that expenditure without adversely affecting the services to children and young people.
- 3.39 In reviewing the way they fund and commission high needs provision for all ages, it is essential that local authorities work closely with parents and young people. A fundamental principle of the SEN and disability reforms is that services should be co-produced with the parents and young people who use them. The statutory framework gives parents and young people a central role in making decisions about their provision – including a right to request placements at particular institutions. Local authorities need to take account of the resulting demand when developing the local offer of services. Some local authorities will need to make adjustments to reduce their high needs spending. We propose five main forms of **help for local authorities and institutions**, including the scope for significant extra investment that enables them to reduce future costs (an invest-to-save approach).
- a. Developing new specialist provision to better meet existing pressures and emerging needs. **Capital funding through the free school programme** is already available to support the provision of new SEN provision where it is needed. Regional Schools Commissioners will encourage constructive conversations between local authorities about their need for new provision.

- b. We will also make available **capital funding to support the expansion of existing provision**, as well as the development of new schools to create new specialist places. This responds to one of the Isos report proposals that there should be a more explicit process for accessing capital funding to develop new SEN provision where it is needed. At least £200 million will be available, and we will say more about how this will be distributed later in 2016.
- c. We will promote **collaborative working between local authorities** in regional or sub-regional groups so that they can achieve more effective and efficient commissioning of provision, working in partnership to share administrative functions as well as services and provision. The Isos report proposed that such approaches would work particularly well for the commissioning of places for very high-need low-incidence SEN, but we think that they should extend to other areas as well. We will encourage this activity by identifying and sharing examples of good practice.
- d. Including pupils and students with high needs in mainstream provision can require less funding than that required by smaller institutions offering more specialist provision. We will therefore make **changes to encourage schools and colleges to include pupils and students with SEN** – see the proposals on changes for mainstream schools in [chapter 4](#) below, and paragraphs [4.13-4.17](#) in particular. In promoting inclusive solutions, we are of course clear that there is no one correct model for children and young people with SEN and disabilities. That is why the statutory provisions allow for decisions to be made on an individual basis, taking account of the child or young person’s needs and the preferences they or their parents have expressed.
- e. Finally, we will support special schools, pupil referral units, the equivalent academies and specialist colleges to reduce some of their costs, in order to meet other cost pressures, in the same way that we are encouraging primary and secondary maintained schools and academies to make sure that they are as efficient as possible. Support for schools to manage pressures on their budgets by becoming more efficient and financially healthy already includes:
- being able to draw on some excellent practice in schools, and a wide range of training and tools offered by organisations in the sector. In a school-led system we believe this peer to peer and other expert support within the sector is one of the best ways to drive improvement;

- a new collection of support and guidance for schools on GOV.UK¹¹, which has brought together financial health and efficiency information in one place for schools to access. This website also links out to other useful sites, for example Teaching Schools offering financial health advice and support. Not all the tools are applicable to specialist settings, but we will build on this initial package of support, making it increasingly comprehensive in future.

¹¹ Department for Education, '[Schools financial health and efficiency](#)', February 2016

Chapter 4: Changes to the way high needs funding supports institutions

4.1 In this chapter, we set out proposals for improvements to the current funding arrangements at local level, including changes to the ways funding is distributed to mainstream schools, colleges and special post-16 institutions.

Schools

4.2 We are not planning any fundamental changes to the way that schools are funded for their pupils with SEN and disabilities. Mainstream schools will be funded through their mainstream formula, continuing the existing requirement that they meet from their budget the costs of additional support up to £6,000 per annum for all pupils with SEN. Special school places will be funded at £10,000 per place per annum. In all cases top-up funding from the commissioning local authority will be paid to the school in respect of individual pupils with high-level SEN to reflect the costs of the additional support they need in excess of £6,000.

4.3 In the following paragraphs we set out some proposed changes to the funding of mainstream schools and academies, and independent special schools. We are not proposing any changes to the funding of maintained and non-maintained special schools, or special academies.

Mainstream schools

4.4 It is important, as noted previously, that mainstream schools play their full part in providing for pupils with SEN, including those with high needs. The Children and Families Act 2014 confirms the general presumption that children and young people with SEN should be educated in mainstream provision unless they have a statement of SEN or EHC plan which specifies more specialist provision. In 2015, 92% of all pupils with SEN were educated in mainstream schools, while 57% of those with statements or EHC plans were in mainstream schools¹². A review of special educational provision by Ofsted¹³ demonstrated that no one model of educational support systematically delivered better outcomes for children and young people than any other. Ofsted found that, with appropriate support, pupils with severe and complex needs were able to make outstanding progress in both mainstream and special schools. What matters is

¹² Department for Education, '[Special educational needs in England: January 2015](#)', July 2015

¹³ Ofsted, '[Inclusion: does it matter where pupils are taught? Provision and outcomes in different settings for pupils with learning difficulties and disabilities](#)', July 2006

the quality of educational provision and quality of teaching, delivering what is right for the individual child, and supporting them to achieve the best outcomes that they can. The high needs funding system should ensure that resources and commissioning arrangements do not present a barrier to pupils with SEN having their needs met in mainstream rather than specialist provision.

Notional SEN budget

- 4.5 Isos proposed that we should remove the current concept of a notional SEN budget, because local authorities calculate it in very varied ways, the budgets do not necessarily correlate well with the needs in schools, and it is unhelpful for schools to view the amount as the only funding they can use for supporting SEN. At the same time they proposed that more should be done to clarify what mainstream schools are expected to provide for pupils with SEN and disabilities, from their budgets, and argued both that local agreement on this should be published as part of the local offer, and that this should be in the context of a more defined national framework.
- 4.6 We agree with Isos that how local authorities currently calculate their schools' notional SEN budget is varied and not particularly meaningful or helpful for schools. We think that some way of identifying how much of a school's budget might be appropriate to spend on children with SEN could be helpful to schools as they decide on their spending priorities, but it would be better to offer schools guidance and the tools to do this for themselves, rather than specifying that the local authority has to calculate a notional SEN budget for each school. Neither do we think that it would be helpful to try and calculate at national level a notional SEN budget for each school (taking into account that we are consulting separately on a proposal to move from each local authority calculating their schools' funding through a local formula to a national formula that would, after two years, determine the funding for all mainstream schools directly).
- 4.7 We therefore propose to work with SENCOs, school business managers and head teachers to find out how best to help schools decide how much to spend on SEN support, recognising they own and set their budgets. In the meantime we are proposing to retain the current concept of the notional SEN budget.

Local offer

- 4.8 The reforms in the Children and Families Act provide greater local transparency through the local offer of services for children and young people with SEN and disabilities. This gives clarity for parents and young people about a "core entitlement" that mainstream schools can provide. Isos went further and

proposed national guidelines that would create more consistency in what mainstream schools offer across the country. We are not yet convinced, however, that such guidance would be able to adequately cover the variety of effective SEN provision which schools offer.

- 4.9 Furthermore, the new SEN and disability system rightly focuses on outcomes for children and young people, and it is therefore important that schools think more about the best way of achieving these, rather than focusing on inputs. Schools should look critically at what their pupils with SEN need, take into account the professional judgement of teachers and other professionals, and decide what kind of support is most appropriate.

Question 9

Given the importance of schools' decisions about what kind of support is most appropriate for their pupils with SEN, working in partnership with parents, we welcome views on what should be covered in any national guidelines on what schools offer for their pupils with SEN and disabilities.

Special SEN units and resourced provision attached to mainstream schools

- 4.10 Linked to the proposals in chapter 3 above, we are proposing a small change in the way that special units and resourced provision attached to mainstream schools are funded. Currently these units are funded in exactly the same way as special schools, at £10,000 per place, and the pupils educated in those units are excluded from the calculation of the schools' local formula budget. In future, we propose that they receive the per pupil amounts that would be due to the school (these vary but are in the region of £4,000) by including the pupils in the units within the school's pupil count, plus place funding of £6,000.
- 4.11 This would simplify the mainstream schools formula by avoiding the need for adjustments to pupil numbers where the pupils in the school are part of the unit rather than the mainstream provision. In addition, this change would bring pre-16 funding into line with the way that post-16 students with high needs in these units are currently funded. And it would still enable the local authority to support empty places where they were needed for later admissions to the unit, short term places for children from other schools, or as a way of managing other short term fluctuations in pupil numbers that can occur in these units.
- 4.12 Given the local flexibility that we are planning to continue, whereby local authorities can decide with their schools and academies how many places to

fund from their high needs budget, we do not anticipate that this would have an adverse impact on the creation and sustainability of these units.

Question 10

We are proposing that mainstream schools with special units receive per pupil amounts based on a pupil count that includes pupils in the units, plus funding of £6,000 for each of the places in the unit; rather than £10,000 per place. Do you agree with the proposed change to the funding of special units in mainstream schools?

How local authorities can encourage appropriate mainstream inclusion

- 4.13 Local authorities currently have flexibility to retain funding, as part of their high needs budget within the overall schools budget, for the purposes of encouraging:
- a. collaboration between special and mainstream schools to enable children with SEN to engage in activities at mainstream schools;
 - b. the education of children with SEN at mainstream schools; and
 - c. the engagement of children with SEN at mainstream schools in activities at the school with children who do not have SEN.
- 4.14 We intend to continue to allow this flexibility, so that local authorities can spend this money in a way that best encourages appropriate levels of inclusion and integration. The latest information from local authorities indicates that in 2015-16 they planned to spend £161 million¹⁴. We will expect local authorities to satisfy themselves (and their schools forums) that they are achieving value for money in how this money is spent, and we are keen to promote good practice in how this money is used.

Question 11

We therefore welcome, in response to this consultation, examples of local authorities that are using centrally retained funding in a strategic way to overcome barriers to integration and inclusion. We would be particularly interested in examples of where this funding has been allocated on an “invest-to-save” basis, achieving reductions in high needs spending over the longer term. We would like to publish any good examples received.

¹⁴ Education Funding Agency, '[Section 251: 2015 to 2016](#)', September 2015

- 4.15 Local authorities can also retain funding in their high needs budget to support schools that are particularly inclusive, and have a particularly high proportion of pupils with SEN or high needs (which may be of a type that is not fully captured by the proxy measures in the formula), such that they cannot meet the costs of additional support costing up to £6,000 for those pupils. The information from local authorities indicates that they are spending £50 million in 2015-16 on this funding for mainstream schools¹⁵. Isos drew attention to a lack of consistency and effectiveness in local authorities' use of this funding, to the detriment of schools and their pupils, and proposed that we consider providing clearer direction on the circumstances in which such funding can be made available to schools, and on the options for allocating the funding.
- 4.16 Again, we see this form of funding as important in helping local authorities secure full engagement from schools in making suitable provision for pupils with SEN, in developing a well-earned reputation for successfully meeting particular types of SEN, and in managing situations where the funding through a school's budget is not able to support a disproportionate number of pupils with high needs.
- 4.17 Although we think that it is important to retain an element of local flexibility for authorities, we agree with Isos that clearer guidance would be helpful, and will include that in the guidance that is published for 2017-18. EFA guidance already includes some examples, but if local authorities or schools consider that there are further good examples of where this funding is used to best effect, and in a way that secures the authority's wider value for money objectives, we would welcome responses on this as part of this consultation.

Question 12

We welcome examples of where centrally retained funding is used to support schools that are particularly inclusive and have a high proportion of pupils with particular types of SEN, or a disproportionate number of pupils with high needs.

Independent special schools

- 4.18 Currently maintained special schools, special academies and non-maintained special schools all receive funding of £10,000 per place from either the local authority (in the case of maintained schools) or the EFA. This forms part of their overall budget, along with the top-up funding provided by local authorities for individual pupils with high needs. Any provision in independent schools

¹⁵ Education Funding Agency, '[Section 251: 2015 to 2016](#)', September 2015

(including provision in independent special schools) is funded wholly by local authorities. This means that there is less of a “level playing field” between different types of special school offering similar services for pupils with EHC plans. Promoting consistency between different types of special school has been an important aim of the SEN and disability reforms. For example, joining the list of approved institutions under section 41 of the Children and Families Act allows independent special schools and special post-16 institutions to come under the same statutory admission arrangements as maintained special schools, special academies and non-maintained special schools¹⁶.

4.19 From 2017-18 we propose to offer those **independent special schools on the section 41 approved list** the opportunity of receiving a grant from the EFA for the **place funding**, at the rate of £10,000 per place. This would reduce the top-up funding required from local authorities. So that this system works for independent special schools in the same way that it works for other types of special school, we would need to collect information from schools in more detail than is currently provided. We would need to identify those pupils who are funded by a local authority, and would need to know their home address postcode so that we know which local authority they come from.

Question 13

Do you agree that independent special schools should be given the opportunity to receive place funding directly from the EFA with the balance in the form of top-up funding from local authorities?

4.20 If the responses to this consultation indicate support for this proposal, the EFA will contact all those schools on the section 41 Secretary of State approved list to explain how they can opt into the process for receiving this funding and the means by which the required additional information will be collected.

Early years providers

4.21 We have increased high needs allocations to local authorities in 2015-16 and 2016-17, using population data that include under 5s, and the proposals in chapter 3 are for a formula using data that would continue to reflect that high needs funding can support the full age range, from 0 to 25. The Government is

¹⁶ The section 41 approved list can be found at: Department for Education, '[Independent special schools and colleges](#)', December 2015

also making a substantial increase to the national average hourly rate of funding for childcare provision.

- 4.22 Early identification of SEN when children are young, and high quality early years provision to meet the needs identified, can help with the transition to school and prevent problems escalating later. Local authorities have been able to use the early years and high needs allocations within their DSG to prioritise support for this age group, and the Isos report provided some good examples of what could be achieved.
- 4.23 As a result of seeing this good practice and their research findings on where such support was lacking, Isos proposed that local authorities should work with providers to establish clear expectations about the support pre-school settings are expected to provide from within their core funding, and the circumstances in which additional advice, training or resources would be provided. We believe that local authorities should do this as soon as they can, if they have not already done so. It is important that early years providers understand how they can access support for those children who need extra help, so that parents can be reassured about what is available.
- 4.24 Isos also proposed that the department should do more to set out the ways in which local authorities can fund SEN provision in pre-school settings, as there were options that some authorities could adopt to improve the provision. Later this year we will consult on specific measures that would help local authorities improve the support provided to early years settings; and on how, through changes to the funding arrangements, we intend to help secure improvements to early years provision for young children with SEN and disabilities. We will seek views on how best to design a system that ensures those with both lower-level and high needs are given the best start in their education.
- 4.25 In the meantime, so that local authorities can develop early intervention and SEN support strategies that are appropriate to their local early years settings and providers, we are allowing them to use both early years and high needs allocations to provide SEN support. It is up to local authorities, working with providers, to judge the level of support an individual child needs, and whether it requires high needs funding.

Post-16 providers

- 4.26 We have carefully considered the proposals in the Isos report relating to core funding for SEN in the post-16 sector. Isos rightly identified that this sector was still adapting to the high needs funding and SEN and disability reforms, both of

which had meant local authorities and post-16 providers developing a new set of funding and commissioning relationships and processes. A year on from their research, there have been improvements, but there are some aspects of the system which are not working as well as we would like, and that would benefit from more clarity about roles and responsibilities.

4.27 Of course there is no substitute for strong partnership working and, where local authorities and institutions are co-operating and finding local solutions to local issues, students get the support they need. This co-operation is all the more important during this time when area reviews are taking a strategic approach to the development of a strong and vibrant FE sector that meets the needs of all young people on that route to adulthood and employment.

4.28 The Isos researchers canvassed the views of local authorities, schools and FE providers, and spoke to the organisations representing that sector. They identified the issues and problems in the current arrangements, considered a number of options proposed by those whose views they sought, and concluded by proposing that:

- a. mainstream post-16 providers should receive, through the post-16 funding formula, the funding that is currently paid to them as place funding of £6,000 per place;
- b. as in the school system, local authorities should have a role in determining approaches to distributing additional funding outside the formula to providers who admit a higher proportion of students with SEN, and to incentivise more inclusion. This role would also include the designation of special units attached to FE colleges, which would continue to attract £6,000 per place in addition to the formula allocation for any students in the units;
- c. all specialist places in special post-16 institutions should be funded at £10,000 per place as is currently the case in special schools.

4.29 We consider that there is merit in these proposals.

- a. A common set of funding arrangements pre- and post-16 better reflects that one of the aims of the SEN and disability reforms is the introduction of a system of support that extends as seamlessly as possible throughout the education system and through the age range up to 25. These changes would complement others outlined in this consultation to bring better alignment throughout the funding system.

- b. We also believe that such arrangements would encourage better partnership working between local authorities and institutions, and discourage over-identification of students with high needs – which tends to happen in mainstream settings unless proxy factors are used to calculate the funding allocations.
- c. A formulaic allocation would be most appropriate for institutions which have a small number of students with high needs. We would no longer need to collect information from local authorities and a large number of institutions about the places required for very small numbers of students with high needs, reducing the bureaucracy for all involved.¹⁷ For FE colleges which have a significant proportion or number of students with high needs, an approach comparable to special units in mainstream schools is likely to be more appropriate, as proposed by Isos.
- d. Finally, such proposals would fit well with the way we are proposing to allocate funding to local authorities, and the adjustments that would be made to reflect demographic changes and the movement of students between institutions and areas (see [chapter 3, paragraphs 3.24-3.26](#) and the technical note). One of the problems in how we currently fund local authorities is the fact that post-16 funding is different from the way the pre-16 arrangements work, and the difference creates complications.

4.30 The Children and Families Act 2014 confirms the general presumption that young people with SEN should be educated in mainstream provision unless they have an EHC plan which specifies more specialist provision. The Act and associated code of practice also set out the duties, responsibilities and expectations of certain types of mainstream post-16 provider – schools, sixth form colleges and FE colleges – in admitting young people with SEN and meeting their needs, including those with high needs. We acknowledge, however, that some schools and sixth form colleges, and many FE colleges, have developed specialist provision to cater for groups of students with high level SEN, sometimes focusing on a particular type of need, and that these institutions cater for a larger proportion or number of students with high needs than other post-16 mainstream settings.

4.31 In schools, this provision is designated as a special unit or resourced provision, but in the current FE funding and commissioning arrangements, special units

¹⁷ Out of over 1,250 mainstream institutions offering post-16 education for students with high needs, 900 (about 72%) are currently funded for fewer than 10 high needs places, which accounts for 6% of the overall total of funded post-16 high needs places. Source: Education Funding Agency, '[High needs: allocated place numbers](#)', May 2015

are not defined, other than by the institutions themselves. We propose to introduce the concept of such provision in FE and sixth form colleges. In line with local authorities' strategic commissioning role, we are attracted to an approach in which they might play a part in designating these units, so that high needs provision in an area can be planned to match the needs of the students. Local authorities commissioning places at a college would have to work together and with the college to agree on how many places in the unit were to be funded. Following further analysis of the data, and further consideration of the role of local authorities in recognising these units, we intend to indicate a proportion or number of students with high needs beyond which colleges could be considered as having such specialist provision. As is the case now, such provision would attract funding of £6,000 per place, in addition to the amount the national formula allocates for all the college's students; and there would need to be a process for collecting information from local authorities about how many high needs places are to be funded each year in these institutions, to inform the EFA's funding allocations.

4.32 Under the Isos proposals, provision in specialist institutions that cater wholly or mainly for students with high needs, who normally have an EHC plan, would all receive a flat rate £10,000 per place as their core funding. Special schools' post-16 provision falls into this category, and already attracts £10,000 per place. Other post-16 specialist providers are formally constituted as FE colleges or are identified on the section 41 approved list referred to in [paragraph 4.18](#) above. A flat rate amount per place would considerably simplify the funding for these institutions. As now, we envisage that the number of places to be funded in maintained special schools and special academies would be determined by local authorities as a result of their strategic planning and partnership with institutions. Non-maintained special schools and special post-16 institutions would be funded for their places using the latest available data on student numbers available to the EFA.

4.33 We acknowledge, however, that before endorsing these proposals, FE and sixth form colleges, special post-16 institutions and other post-16 providers will want to know more about how such proposals would work in practice, how the current distribution of post-16 high needs funding would be affected, and how their funding allocations from the EFA would change. We intend to do further work on how these new arrangements would operate; what we would use as a proxy indicator of SEN in the post-16 formula and what the impact would be on individual post-16 providers; and how we would recognise in the funding arrangements that some SEN and disabilities would not be captured by any proxy indicator. The results of that further work will be shared in the second phase of this consultation.

Question 14

We welcome views on the outline and principles of the proposed changes to post-16 place funding (noting that the intended approach for post-16 mainstream institutions which have smaller proportions or numbers of students with high needs, differs from the approach for those with larger proportions or numbers), and on how specialist provision in FE colleges might be identified and designated.

Other Isos proposals

4.34 This chapter and chapter 3 set out our response to most of the proposals in the Isos research report. Annex A summarises the full set of proposals made by Isos, including the proposals they made for local authority action, and indicates our response to those proposals, including those not covered previously.

Annex A: Summary of Isos research proposals and Government response

1. The Isos Partnership research report was published in July and is available on the GOV.UK website¹⁸. There is much useful commentary and analysis in the report, and we commend the way the research team tackled such a complex area so comprehensively.
2. The 17 proposals in the report have formed the basis of the proposals on which we are consulting in this consultation. This annex summarises each of the 17, shows which part of the consultation covers each proposal, and sets out the Government's response to those not covered in the main text of the consultation.

Proposals: these are numbered in the order that they appear in the report	Government response
<p>1 We propose that, subject to the more detailed modelling that is now required, the DfE should consider allocating the high needs block to local authorities on the basis of a formula. We propose that this might include factors related to deprivation, prior attainment, disability and general children's health. We believe that such a formula-based approach would be more objective, and easier to explain and understand, than the current arrangements. It could be rebased annually if desired, and would correlate better with a wider range of measures of need than the current funding distribution.</p>	<p>We agree with this proposal. Building on what Isos has proposed, the Department's proposals on a formula are set out in chapter 3.</p>
<p>2 Local authorities should publish, through their local offer, a local agreement on what all schools will provide for children and young people with SEN as a matter of course. The DfE should also consider publishing clearer national directions on this subject to provide a consistent national framework against which local offers and agreements might be developed. Greater local transparency, particularly if reinforced by sharper national direction, should have the effect of clarifying expectations on the system and create greater consistency in what schools should be looking to do within the first £6,000 of additional support.</p>	<p>We agree that local authorities should aim for transparency about what mainstream schools provide in the information about the local offer that they publish for parents and others.</p> <p>We are not yet convinced of the need for further national guidance, but would welcome views on this (chapter 4, paragraphs 4.8-4.9).</p>

¹⁸ Department for Education, '[Funding for young people with special educational needs](#)', July 2015

Proposals: these are numbered in the order that they appear in the report	Government response
<p>3 To ensure that the base level of funding a school receives better reflects the needs of pupils with SEN, we propose that the DfE should consider modelling the impact of using the 0-15 DLA claimant measure as an additional factor in school funding formulae to better reflect the needs of children and young people with SEN. Our local authority level analysis suggests that this indicator is the most likely to offer significant explanatory power over and above measures of deprivation and low prior attainment which already feature in the formula, is available at post-code level and is regularly updated.</p>	<p>We have looked carefully at the possibility of including a DLA factor in the schools national funding formula. There are a number of reasons why we do not think it feasible at this stage to include a DLA factor in the schools funding formula, and this is therefore not included in the factors currently proposed for the formula – see chapter 2, paragraphs 2.77-2.78 of the schools national funding formula consultation.</p>
<p>4 We propose that the DfE should consider removing notional SEN budgets from the funding system for mainstream schools. We consider that any risk that the system is not yet mature enough in its approach to providing for SEN to enable notional SEN budgets to be removed could be addressed. We think that this mitigation would include clearer expectations for what all schools should provide for pupils with SEN, communicating clearly how core funding is calculated, and a simple financial planning tool to guide schools’ decisions about spending on SEN.</p>	<p>We agree that that how local authorities currently calculate their schools’ notional SEN budget is not particularly meaningful or helpful for schools. We propose to work with SENCOs, school business managers and head teachers to find out how best to help schools decide how much to spend on SEN support – see chapter 4, paragraphs 4.5-4.7. A financial planning tool is one option that we will explore.</p>
<p>5 We propose that the DfE should consider providing clearer direction for local authorities on the circumstances in which they can provide additional funding outside the formula to schools, and a short menu of options for the criteria that may be used for allocating this. This would ensure greater consistency in practice and mitigate the risk that some highly inclusive or small schools are unable to meet the costs of the first £6,000 of additional support from their budgets.</p>	<p>Through the consultation and other feedback from local authorities, we intend to gather more information about the most effective ways that local authorities are helping their schools be more inclusive, and will produce revised guidance later this year – see chapter 4, paragraphs 4.15-4.17.</p>

Proposals: these are numbered in the order that they appear in the report		Government response
6	We propose that local authorities should work with providers to establish clear expectations about the support pre-school settings are expected to provide from within their core funding, and the circumstances in which additional advice, training or resources will be provided.	We agree that local authorities should do this, not least as part of developing their local offer, if there are gaps in the information for parents of young children and early years providers.
7	We propose that the DfE should set out, through existing published resources or webinars, a practical reminder of the ways in which local authorities can fund SEN provision in pre-school settings. Much of this information is already available, and some local authorities are using it effectively. Nevertheless, there would be value in providing practical reminders.	We are considering what extra information to make available, and how best to communicate appropriately to local authorities. We will consult shortly on specific measures to help LAs improve the support provided in early year settings – see chapter 4, paragraphs 4.21-4.25 .
8	We propose that there should be a more explicit role for local planning and commissioning of places in specialist settings, in which local authorities, in collaboration with schools, would play a central role. This would be in line with local authorities' statutory duties, and would provide scope to plan provision strategically to meet in-year changes and longer-term needs. The DfE may wish to consider the steps to be put in place to enable local education systems to develop such approaches.	We have already introduced this approach in the arrangements for 2016-17 allocations of high needs place funding, clarifying the flexibility that local authorities have and the process for making sure that academies and colleges are included in that. The proposals in chapter 3 envisage a continuation of this approach in future years.
9	We have also suggested that there should be a more explicit process for accessing capital funding to develop new SEN provision where it is needed. This last point applies equally to schools and post-16 institutions.	We agree. The availability of capital funding for more free schools, including special free schools, and for more specialist places for children and young people with SEN and disabilities, was confirmed in the 2015 spending review announcement – see chapter 3, paragraph 3.39 .

Proposals: these are numbered in the order that they appear in the report	Government response
10 We consider that there is sufficient flexibility within the current arrangements to support small, highly-specialist special schools, and those with highly-mobile pupil populations. We propose that local authorities should use these flexibilities, through their banding frameworks and partnership approaches, to prevent small specialist providers from becoming unviable due to short-term fluctuations in pupil numbers.	We agree that local authorities should consider the position of small specialist providers in their partnership and funding arrangements.
11 We propose that what is currently place-led funding for post-16 institutions (so-called 'element 2') should be included in the formula allocations for mainstream post-16 providers. This option would preserve the principle of equivalence in SEN funding, across the different pre- and post-16 funding systems. It is also aligned with what we are proposing in terms of reforming SEN funding in mainstream schools, and would thus ensure equivalence between the school and FE sectors.	We believe that there is merit in this proposal, though only for institutions that do not have large numbers or proportions of students with high needs, and are seeking views through this consultation – see chapter 4, paragraphs 4.26-4.30 .
12 We propose that places in special post-16 institutions should be funded at £10,000 per planned place, with top-up funding provided above this level, so that there is consistency with post-16 places in special schools. We suggest that the same approach is used to fund designated resourced provisions and units in mainstream post-16 institutions.	As above, we believe that there is merit in these proposals, including the introduction of the concept of special units in FE and sixth form colleges, and are seeking views through this consultation – see chapter 4, paragraphs 4.31-4.33 .
13 We propose that the DfE should develop and publish a set of principles or minimum standards for the effective operation of top-up funding. This could entail bringing together existing published material on top-up funding, but the DfE may wish to consider whether additional principles or standards would enable more effective approaches to top-up funding.	The latest edition of the EFA's operational guidance, published in September 2015, has helped to bring the published material on top-up funding together, and we will consider what further guidance would be helpful.
14 By the same token, we also propose that local authorities should publish information about their top-up funding arrangements, including both their banding or top-up values and their top-up <i>practices</i> , including named points-of-contact, timescales and review requirements.	We agree, and will include reference to the need for greater transparency in a future update of the EFA's operational guidance to local authorities.

Proposals: these are numbered in the order that they appear in the report		Government response
15	We propose that local authorities should establish processes for accessing practical advice, capacity-building support, and top-up funding so that the statutory assessment process is not the sole means of accessing this support. Such approaches could be applied across early years settings, schools and post-16 institutions to foster dialogue, build capacity, and secure better outcomes.	We agree, and will include reference to the different ways that local authorities can provide this support in a future update of the EFA's operational guidance to local authorities.
16	We propose that the DfE should consider publishing joint guidance with the Department of Health (DH) / NHS England that clearly describes the role of clinical commissioning group leads in SEN and sets out which aspects of provision should normally be funded by education and which should be funded by health.	The Department of Health is exploring how future guidance to clinical commissioning groups (CCGs) can give a clearer indication of what health budgets would be expected to pay for.
17	We propose that the DfE should consider piloting sub-regional or regional approaches to joint strategic commissioning of provision for very high need low incidence SEN. Doing this in areas where there was a history of successful collaboration would provide a basis for testing more systematic regional partnerships.	We believe that collaboration between local authorities will become increasingly important. We are exploring existing practice and plans initially, and will consider how to share good practice that we identify and what other measures we can take to encourage successful partnership arrangements – see chapter 3, paragraph 3.39(c) .

Annex B: Glossary of terms and acronyms

Terms

Term	Definition
Academy	Publicly funded independent schools that are free from local authority control. Other freedoms include setting their own pay and conditions for staff, freedoms concerning the delivery of the curriculum, and the ability to change the length of their terms and school days.
Alternative provision	Education arranged by a local authority or school for pupils of compulsory school age outside of mainstream or special schools, including pupils: with behaviour problems, health needs preventing school attendance or without a school place. It may include full or part time placements in pupil referral units, AP academies, AP free schools or FE colleges; provision in hospital schools and independent schools; and other provision such as home tuition services and voluntary or private sector providers.
Area reviews	Area reviews are the mechanism by which BIS and DfE are reviewing the provision of post-16 education and training in England, so that it is tailored to the local context, meeting the needs of learners and employers, and is designed to achieve maximum impact.
Base or core funding	A level of funding that is allocated from the local authority or EFA to individual schools and other institutions, usually based on pupil or place numbers.
Capital funding	Funding allocated to meet capital expenditure for creating new school or college places and to carry out significant maintenance and repair work to existing buildings.
Children and Families Act 2014	Part III of the Act introduces significant changes to the SEN and disability system including new assessment arrangements, joint commissioning duties, a local offer, and increased engagement with children, young people and families.
Clinical Commissioning Group	An NHS organisation set up by the Health and Social Care Act 2012 to organise the delivery of NHS services in England.

Term	Definition
Dedicated schools grant	The ring-fenced specific grant paid by the department to local authorities from April 2006 in support of the schools budget. The money has either to be delegated to schools or used for centrally managed provision for pupils. It contains three funding blocks (schools, high needs and early years).
Early years block	The early years block funds provision for 2, 3 and 4 years olds in maintained nurseries; in the private, voluntary and independent (PVI) sector, and in maintained schools and academies.
Education Funding Agency	A DfE executive agency that from April 2012 is responsible for distributing capital and revenue funding for education and training for 3 to 19 year olds (up to 25 in the case of high needs provision). The EFA directly funds academies, free schools, non-maintained special schools and post-16 providers; it funds local authorities for maintained primary, secondary and special schools and pupil referral units; and it distributes capital funding and gives advice on capital projects.
Education, Health and Care plan	A single plan for meeting a child or young person's education, health and social care needs, which can run from birth to age 25 if local authorities agree that a young person needs more time to get ready for adulthood
Free schools	State-funded schools set up in response to what local people say they want and need in order to improve education for children in their community. These new schools have the same legal requirements as academies and enjoy the same freedoms and flexibilities.
High needs funding block	The high needs block is the funding for high needs within the DSG.
Hospital education	Education provided at a special school established in a hospital, or under any arrangements made by the local authority where the child is being provided with such education by reason of a decision made by a medical practitioner.
Income deprivation affecting children index	A measure of financial deprivation that affects children: a score and rank is provided for each lower super output area. This is often referred to by its acronym IDACI.

Term	Definition
Individualised learner record	A record completed by all post-16 education providers apart from schools and academies. Providers update the record frequently during the course of an academic year, and the data set is collected by the Skills Funding Agency regularly, and accessed by the Education Funding Agency. Final returns for the academic year are collected in the autumn term following the end of the year.
Maintained school	A school which is funded via the local authority and subject to local government control.
Multi-academy trust	A group of academies working together under a shared academy structure.
Notional SEN budget	In considering their funding formula for mainstream schools and academies, and the appropriate level of delegation of SEN funding, local authorities must make sure that the budget shares of schools and academies include an appropriate amount that enables them to contribute to the costs of the whole school's additional SEN support arrangements, up to a mandatory cost threshold of £6,000 per pupil.
Proxy factors or indicators	Indirect indicator or measure that approximates or represents a particular need or characteristic in the absence of a direct measure.
Pupil referral unit	An establishment maintained by a local authority which is specifically organised to provide education for children who are excluded, sick, or otherwise unable to attend a mainstream or special maintained school or academy.
Resourced provision in mainstream schools	Resourced provision is where places are reserved at a mainstream school for pupils with a specific type of SEN, taught mainly within mainstream classes, but requiring a base and some specialist facilities around the school.
School census	The school census is a statutory return which takes place during the autumn, spring, and summer terms. The census collects information about individual pupils and about the schools themselves.
Schools block	The schools block funds all pupils not funded through the high needs or early years blocks.

Term	Definition
Section 41 list	Section 41 of the Children and Families Act 2014 allows independent special schools and specialist post-16 institutions to be included on the Secretary of State approved list. Registration under Section 41 would give parents/young people a right to express a school or institution as a preference when their education, health and care plan is being prepared/agreed and a requirement for local authorities to include the school or institution in their local offer. The arrangements also enable independent special schools and special post-16 institutions on the approved list to be considered on the same basis as maintained schools, academies, non-maintained special schools and FE colleges when a child's or young person's education, health and care plan is developed. It also places an obligation on the school or institution to admit the pupil and meet his or her needs.
Special educational needs and disability code of practice: 0 to 25 years	Statutory guidance on the SEN and disability system for children and young people aged 0 to 25, produced for organisations which work with and support children and young people who have SEN or disabilities.
Special units attached to mainstream schools	Special provision within a mainstream school where the children are taught mainly within separate classes.
Statement of SEN	A legal document which sets out a child's SEN and any additional help that the child should receive, normally made when all the educational provision required to meet a child's needs cannot reasonably be met by the resources within a child's school. These are being phased out by April 2018, and replaced with education health and care plans.

Acronyms

Acronym	Definition
AP	Alternative provision
DLA	Disability living allowance
EFA	Education Funding Agency
EHC	Education, health and care
FE	Further education
FSM	Free school meals
IDACI	Income deprivation affecting children index
ILR	Individualised learner record
LDA	Learning difficulty assessment
PRU	Pupil referral unit
SEN	Special educational needs (and disabilities)
SENCO	Special educational needs co-ordinator



Department
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