

High Needs Funding Sub-Group

Report of Chief Officer Children's Services

Recommendation

That DEF members agree the establishment of a dedicated High Needs Funding Sub-committee to the DEF and further agree the terms of reference, attached at Appendix One.

Background

Officers have recently been in discussion with members of the Schools Finance Group to discuss the proposal to establish a High Needs Subcommittee/working group of Devon Education Forum with agreed terms of reference. This will be an ongoing subcommittee/working group with the purpose of focusing solely on the High needs block - rather than the wider schools' budget - both strategically and operationally.

During this term the notion of a dedicated High Needs Funding Sub-committee of DEF was presented to the Schools Finance Group. There has already been ongoing collaborative work between education leaders and Devon County Council to monitor the High Needs Budget through the Schools Finance Group. The proposed refocus and collaboration is essential given the large overspend of the High Needs Block and the urgent need to ensure we can secure a sustainable budget position in the future and take forward the DSG management plan at pace as presented to the DfE.

The safety valve intervention programme:

In 2020-21, the Department for Education introduced the 'safety valve' intervention programme for those local authorities with the very highest percentage DSG deficits, recognising that help would be needed for these authorities to turn things around in a short space of time. The programme required those local authorities to develop substantial plans for reform to their high needs systems and associated spending, with support and challenge from the department, to rapidly place them on a sustainable footing.

'We asked the local authorities to focus on one mission statement: to develop plans to reform their high needs systems as quickly as possible to provide a good service within their available funding. The programme is not a 'bail-out' – it requires genuine reform and improvement to services. All local authorities should focus on the same goal, for the long-term benefit of their children and young people and securing the support they require'.¹

¹ Guidance: Sustainable high needs systems: learning from the safety valve intervention programme. DfE July 2021

There were two principal goals identified during the programme which were critical for the local authorities' ability to reach sustainable positions:

- appropriately managing demand for Education, Health and Care Plans (EHCPs), including assessment processes that are fit for purpose
- use of appropriate and cost-effective provision. This includes ensuring mainstream schools are equipped and encouraged to meet needs where possible, whilst maintaining high standards for all pupils.

Achieving the goals requires:

1. Early Intervention focus
2. Increased SEN Support offer
3. Review EHCP assessment processes and thresholds
4. Culture change and work with school leaders

DCC has been having meetings with the DfE to be part of the safety valve intervention programme and to date we have had positive feedback on this.

The Schools' forum Operational and good practice guide² states that *'It's open to a schools' forum to set up working groups of members to discuss specific issues, and to produce draft advice and decisions for the schools' forum itself to consider' -- which is what the High Needs Subcommittee of DEF would be.*

Purpose:

Devon Education Forum members will have greater opportunity to take a proactive role in High Needs Budget decision-making by:

- a) Ensuring that High Needs Funding is allocated appropriately to achieve the best possible outcomes for children and young people with SEND, receiving value for money of the High Needs Block.
- b) Taking a proactive role in the DSG management plan subject to the DfE's 'safety valve' intervention programme, and fulfilling the goals set out by that programme, to urgently resolve Devon's overspend issues and make the high needs system sustainable.
- c) Being involved in the meaningful transformation of Devon's SEND offer at a pace, keeping the focus firmly on outcomes for children, young people, and families
- d) Stepping up partnership working between Devon local authority and leaders from early years, schools and post-16 settings making best use of their experience and insights.
- e) Providing greater transparency in decision-making and the use of High Needs Funding.

² Schools' forum Operational and good practice guide. March 2021. Education and Skills Funding Agency.

Governance:

Would be as set out in EFSA guidance:

- *‘Procedures should take account of any use of working groups by the schools’ forum, for example a decision might be taken by voting to accept and adopt a report by a working group’.*
- *‘The schools’ forum should not delegate actual decisions or the finalisation of advice to a working group, as this may have the effect of excluding legitimate points of view.’³*

Such a committee is already accepted good practice nationally and within Devon. DEF has 2 subcommittees in place namely the Schools Organisation, Capital and Admissions group and the Schools Finance Group. Case studies of other local authorities which have been successful in presenting plans to reduce their High Needs Block overspend⁴ have an additional benefit from having a dedicated High Needs funding group.

Conclusion:

The guidance refers to the positive impact of such working groups - *that is, ‘they have proved effective for larger local authorities; examples of some working groups are for high needs and early years.’⁵* A dedicated High Needs Subcommittee of DEF in Devon, which is a larger authority, would have significant impact, given the existing collaboration of education leaders on wider DSG budget monitoring, and in particular, on the implementation of the DSG management plan. A dedicated subcommittee focusing on High Needs funding would consolidate existing work and be the next part of the journey.

Jackie Ross
Interim Deputy and SEND Strategic Director

³ As above

⁴ Guidance: Sustainable high needs systems: learning from the safety valve intervention programme. DfE July 2021

⁵ As above

APPENDIX ONE

Schools' forum -- High Needs Funding Group

Draft Proposed Terms of Reference *(amended following SFG 2.3.2022)*

A. Purpose

To provide a structured forum for leaders from Early Years, schools and Post-16 settings to work in partnership with the local authority to offer advice and make recommendations to Devon Education Forum (DEF) regarding the use of High Needs Funding. *(see Annex 1)*

Devon Education Forum members will have greater opportunity to take a proactive role in High Needs Budget decision-making by:

- a) Ensuring that High Needs Funding is allocated appropriately to achieve the best possible outcomes for children and young people with SEND, receiving value for money of the High Needs Block.
- b) Taking a proactive role in implementation of the DSG management plan, subject to the DfE's 'safety valve' intervention programme, and fulfilling the goals set out by that programme, to urgently resolve Devon's overspend issues and make the high needs system sustainable *(see Annex 2)*
- c) Being involved in the meaningful transformation of Devon's SEND offer at a pace, keeping the focus firmly on outcomes for children, young people, and families
- d) Stepping up partnership working between Devon local authority and leaders from early years, schools and post-16 settings making best use of their experience and insights.
- e) Providing greater transparency in decision-making and the use of High Needs Funding.

B. Responsibilities

1. To monitor, review and make recommendations to Schools' forum on directing the allocation of High Needs Funding in relation to:
 - a) The High Needs Block Budget Recovery Plan, identifying specific pressures and areas for change and in particular impact of spend on outcomes for children and young people including top-up rates, number of places and other specific financial pressures or issues identified by the subcommittee.
 - b) The wider strategic SEND Transformation agenda which underpins Devon's inclusive approach to ensuring positive outcomes for children/young people with SEND through a **graduated response** to meeting needs. This would take account of the presumption in law of mainstream education alongside the use of special schools, as set out in the 2014 Children and Families Act. *(See Annex 3)* as well as the provision of education for children and young people in their local community.

2. Take into account current benchmarking data on spend and outcomes for children and young people with SEND and in Alternative Provision--following lines of inquiry where Devon is an outlier and recommending solutions.
3. Ensure the voice of children, young people and families is central to this work.
4. Develop and undertake a specific work programme (as agreed by Schools' forum) focusing on priority areas and issues arising as above.
5. Report a briefing note to Schools' forum which offers an update on progress after each High Needs Sub-committee meeting (Chair responsibility).
6. Ensure the wider strategic transformation agenda and resulting budget plan is highlighted to the School Forum (as set out above)
7. Ensure that Devon County Council is working in compliance with the High Needs Funding Operational Guidance.

C. Membership

1. Schools' forum representative members—including Early Years and Post-16 each member can send a representative if they are unable to attend. *(See Annex 4)*
2. Deputy Chief Officer, Education and Learning
3. Interim Deputy and SEND Strategic Director
4. Representative from Finance (Head Accountant, Education and Learning or deputy)
5. Senior Manager SEND
6. Representation from other officers – by invitation as required

D. Chair

Agreed/voted by the Schools' Forum *(see Annex 5)*

Administrative support

E. Frequency

The Sub-Committee will meet on a two weekly-basis and ad hoc as required.

Annex 1:

The powers which schools' forums: have to take decisions on a range of funding matters increase the importance of clear procedures, for example, decisions are made on a simple majority or the threshold to be met if higher. These procedures should take account of any use of working groups by the schools' forum, for example a decision might be taken by voting to accept and adopt a report by a working group

Working groups: It's open to a schools' forum to set up working groups of members to discuss specific issues, and to produce draft advice and decisions for the schools' forum itself to consider. The groups can also include wider representation, for example, an early years reference group can represent all the different types of provider to consider the detail of the early years single funding formula. The reference group would then be able to give its considered view on the local authority's proposals to the schools' forum. The schools' forum should not delegate actual decisions or the finalisation of advice to a working group, as this may have the effect of excluding legitimate points of view. These have proved effective for larger local authorities; examples of some working groups are for high needs and early years.⁶

Annex 2: From 'Guidance: Sustainable high needs systems: learning from the safety valve intervention programme'⁷

In 2020-21, the Department for Education introduced the 'safety valve' intervention programme for those local authorities with the very highest percentage DSG deficits, recognising that help would be needed for these authorities to turn things around in a short space of time. The programme required those local authorities to develop substantial plans for reform to their high needs systems and associated spending, with support and challenge from the department, to rapidly place them on a sustainable footing.

We asked the local authorities to focus on one mission statement: to develop plans to reform their high needs systems as quickly as possible to provide a good service within their available funding. The programme is not a 'bail-out' – it requires genuine reform and improvement to services. All local authorities should focus on the same goal, for the long-term benefit of their children and young people and securing the support they require.

There were two principal goals identified during the programme which were critical for the local authorities' ability to reach sustainable positions:

- appropriately managing demand for Education, Health and Care Plans (EHCPs), including assessment processes that are fit for purpose
- use of appropriate and cost-effective provision. This includes ensuring mainstream schools are equipped and encouraged to meet needs where possible, whilst maintaining high standards for all pupils.

Achieving the goals:

⁶ Schools' forum Operational and good practice guide. March 2021. Education and Skills Funding agency- para.65

⁷ Guidance: Sustainable high needs systems: learning from the safety valve intervention programme. DfE July 2021

5. Early Intervention focus
6. Increased SEN Support offer
7. Review EHCP assessment processes and thresholds
8. Culture change and work with school leaders

Annex 3: From *The Special educational needs and disability code of practice: 0 to 25 years*⁸

The Children and Families Act:

- “Secures the general presumption in law of mainstream education in relation to decisions about where children and young people with SEN should be educated”
- “Alongside the general presumption of mainstream education, parents of children with an EHC plan and young people with such a plan have the right to seek a place at a special school, special post-16 institution or specialist college”.⁹
- And sets out that: “Special schools (in the maintained, academy, non-maintained and independent sectors), special post-16 institutions and specialist colleges all have an important role in providing for children and young people with SEN and in working collaboratively with mainstream and special settings to develop and share expertise and approaches.”¹⁰

Annex 4: Membership and Substitutes

Substitutes: the local authority must make arrangements to enable substitutes to attend and vote (where appropriate) at schools’ forum meetings. This applies to schools members, academies members and non-schools members. The arrangements must be decided in consultation with schools’ forum members.¹¹

Annex 5: Election of a Chair:

Under the Regulations, if the position of Chair falls vacant the schools’ forum must decide how long the term of office of the next Chair will be. This can be for any period, but the schools’ forum should consider carefully whether a period exceeding two years is sensible. A long period will also cause problems if the member elected as Chair has a term of office as a member which comes to an end before their term of office as Chair ends. The schools’ forum must elect a Chair from amongst its own members, so it is not possible to elect an independent Chair. In addition, any elected member of the local authority or officer of the local authority who is a member of a schools’ forum may not hold the office of Chair. Schools’ forums can also appoint to a position of vice Chair to provide cover if the Chair is absent or the post vacant.¹²

⁸ *Special educational needs and disability code of practice: 0 to 25 years*. Section 1.26

⁹ *Special educational needs and disability code of practice: 0 to 25 years*. Section 1.38

¹⁰ *Special educational needs and disability code of practice: 0 to 25 years*. section 1.37

¹¹ Schools’ forum Operational and good practice guide. March 2021. Education and Skills Funding agency-para.59

¹² Schools’ forum Operational and good practice guide. March 2021. Education and Skills Funding agency-para.59