

Schools Forum – 19 January 2021

Title of paper:	Early Years funding for Special Educational Needs & Disability (SEND)
Director(s)/ Corporate Director(s):	Nick Lee, Director of Education Services Catherine Underwood, Corporate Director for People
Report author(s) and contact details:	Kathryn Stevenson, Senior Commercial Business Partner (School Funding) Kathryn.stevenson@nottinghamcity.gov.uk Kathryn Bouchlaghem, Early Years Manager Kathryn.bouchlaghem@nottinghamcity.gov.uk
Other colleagues who have provided input:	Rachael Morris, HR Business Lead (People)
Summary This paper consults Schools Forum (SF) on proposals for the distribution of Early Years (EY) Special Education Needs (SEND) underspends relating to the 2019/20 financial year only. A re-evaluation of the SEND inclusion fund (SEN IF) budget will be incorporated into the wider review and consultation on high needs funding for this sector during 2021/22.	
Recommendation(s):	
1	To note the proposal to use the £0.072m Disability Access Fund (DAF) underspend from 2019/20 to provide support to settings with addressing gaps in Speech Language & Communication (SLC) Needs post-COVID.
2	To note the proposal to distribute the £0.146m SEN IF underspend to schools/settings on the basis outlined in paragraph 2.13.
3	To note that the level and eligibility criteria for the SEN Inclusion Fund will be reviewed in parallel with the High Level Needs review for the EY's phase and that revised proposals will be consulted on with the sector in line with ESFA operational guidance.

1 Reasons for recommendations

- 1.1 To use the DAF underspend in line with guidance, maximising the impact by targeting this at an area of need most significantly impacted by the COVID-19 disruption to early education.
- 1.2 To support settings more fully with additional costs related to supporting pupils with SEND accessing their early years entitlement.

2 Background (including outcomes of consultation)

- 2.1 DAF was allocated to Local Authorities (LA's) for the first time in 2017/18 and funding allocations into the LA are based on Department of Work and Pensions (DWP) data on the number of 3 and 4-year olds (not in reception) receiving the Disability Living Allowance (DLA).

- 2.2 It was the DfE's original intention to use the flag of pupils for whom DAF is being claimed on the January Schools and Early Years Census for the final allocations for LAs. However they subsequently decided to continue funding LA's based on DLA receipt data.
- 2.3 EY's providers are responsible for identifying eligible children. DAF funding of £615 per year is provided by the LA for any child in receipt of DLA who is taking up any period of free EY's entitlement, in line with the national guidance.
- 2.4 The funds are intended to be used by providers, for example, to support with making reasonable adjustments to their settings and/or helping with building capacity, be that for the child in question or for the benefit of children attending the setting as a whole.
- 2.5 Education Skills Funding Agency operational guidance (paragraph 7.4) states "It may be the case that local authorities receive more DAF funding from government than they distributed. In such circumstances, local authorities are expected to spend any additional funding in line with the principles and aims of the fund."
- 2.6 Our DAF allocation for 2019/20 was £0.090m which equated to an estimated 146 pupils. However, schools & providers only claimed DAF for 30 pupils meaning £0.072m was unspent as outlined in the October 2020 SF Outturn Report.
- 2.7 In order to address the take-up of DAF funding there are a number of planned actions. Applications for EY SEND Funding are scrutinised for children in receipt of DLA and the associated school or setting contacted and encouraged to apply for DAF.

Communication on DAF issued to Private, Voluntary and Independent (PVI) Special Education Needs Coordinators (SENCO's) which will be repeated on a termly basis and replicated for school SENCO's. Review of the school DAF application process to bring in-line with PVI processes. Investigate if the LA receives data on DLA recipients in order to support a more informed and targeted approach to DAF application.

- 2.8 Data analysis of applications to the EY's SEND Fund over the past 12 months have indicated a rise in the need of SLC interventions. The pandemic has resulted in learning loss in relation to language development. It is proposed we link this funding to the wider Nottingham City SLC strategy and align where appropriate with programmes such as Easy Peasy and Talking Two's linked to any early years setting including those caring for children in receipt of DAF. This additional funding will enable larger participation of the workforce meaning more settings can be involved.
- 2.9 Beyond DAF funding, funding for EY's pupils with complex SEND receive top up funding from the HN's block Bands A-C at the same rates as main school age pupils, pro-rata where pupils are part-time. There is now a single integrated panel process for children in schools and PVCI settings.
- 2.10 The panel also awards SEN inclusion funding at the rate of £1,674 for FTE pupils with lower level or emerging SEN (£865 for PTE). This is funded from the SEN IF within the EY's Block.

The LA consulted all settings on the SEN IF in September 2017. The SEN IF budget was set at £0.170m for 2,3 & 4 year olds. At that time, it was not known how many children would qualify for allocations at this level.

- 2.11 Numbers of 3&4 year olds with emerging needs qualifying for SENIF from the EY's block have been around 75% lower than anticipated when the SENIF was first put into place (around 25 pupils compared to 100), whilst numbers with more complex needs qualifying for HLN funding from the HN's block have been around 70% higher than estimated (85 compared to 50).
- 2.12 The level and eligibility criteria for the SEN IF needs to be reviewed in a joined up way with the work to review HLN funding arrangements for the early years phase. **This will involve a full consultation process with schools and providers.**
- 2.13 There is an underspend of £0.146m on SEN IF which it is now proposed to distribute on a per head basis for pupils accessing the universal entitlement that qualified for HLN top-up or SEN IF funding in the Autumn term 2020. There were 105 pupils receiving such funding last term and this would therefore equate to approximately £1,390 per pupil. This distribution method mirrors the approach used for allocating SEN IF underspends previously.
- 2.14 For main school age pupils, up to and including the current 2020/21 financial year we have had a local Additional Inclusion Allowance (AIA) which provides schools with an additional £4,017 per HLN pupil in the previous academic year.

This is intended to help support schools to ensure they have sufficient funding to support the first £6,000 of additional costs for SEN pupils which are presumed (under national funding arrangements) to be included within their delegated budgets. There is currently no equivalent of the AIA for nursery aged pupils. This can result in significant financial pressure on settings, particularly those with several SEN children.

3 Other options considered in making recommendations

3.1

4 Outcomes/deliverables

4.1

5 Finance colleague comments (including implications and value for money/VAT)

- 5.1 The £0.072m DAF underspend from 2019/20 reported in the 13 October 2020 SF Outturn Report is ring-fenced in the DSG reserve.

As highlighted in paragraph 2.5, the expectation of the ESFA is that DAF underspends will be spent for purposes consistent with the principles and aims of this fund.

The proposal to draw this the under-spend down from reserves to support settings with addressing delays in SLC Needs meets this criteria in that it will help build

capacity across the sector to support children with Special Educational Needs and Disability.

- 5.2 Of the £0.146m SEN IF underspend, £0.004m relates to 2018/19 and is ring-fenced in the DSG reserve and a further £0.142m underspend for 2019/20 was accrued at year end with a view to this being distributed to schools/providers in 2020/21. The proposal contained in this report is for the £0.146m to be distributed to schools and providers based on the number of high level needs/SEN IF pupils accessing their early years entitlement as at Autumn 2020, providing an estimated £1390 per head.
- 5.3 Following consultation on these proposals at Schools Forum, approval to spend will be required through the Council's delegated decision-making process.
- 5.4 The future level and eligibility criteria for the SEN Inclusion Fund will be reviewed and consulted on with schools and providers during the 2021/22 financial year in conjunction with the High Level Needs funding review for this phase.

6 Legal and Procurement colleague comments (including risk management issues, and legal, Crime and Disorder Act and procurement implications)

- 6.1 It is noted that the three recommendations set out in this report are for the Schools Forum to "note the proposals..." - this fits with the School and Early Years Finance (England) Regulations 2020 (EY Regulations) since the Nottingham City Schools Forum is in a consultative role in respect of the recommendations, with the decisions ultimately for Nottingham City Council to take.

The EY Guidance provides that where Local Authority's might have an underspend of DAF funding from the government, they are required to use the extra funding in line with the same principles and aim of the fund. The report details why it is felt that the SLCN funding falls within the same principles and aims of the DAF to enable the funding to be used for these purposes. It must only be used in line with these purposes to comply with the requirements of spending.

The proposed distribution of the SEN IF underspend from this financial year will be used to support the additional requirements for the HLN as a short term measure. As the future review of the funding level and criteria will likely result in a different application of the funding, further consultation will be required in accordance with the EY Regulations.

Dionne Screatton, Solicitor, Commercial Employment and Education, 7th January 2021.

7 HR colleague comments

- 7.1 The content of the report is noted and supported by HR. The proposals in this report do not appear to have any direct impact on employees, or employment matters, and therefore there are no significant recommendation or comments from a HR perspective.
- 7.2 It should be noted that if any of the underspend is used to provide additional capacity through the employment of staff, that the time limited nature of the funding should be taken into account for the employment tenure. Management should be aware of and adhere to the Fixed Term Contract Regulations, and relevant local

adopted policies and procedures for fixed term contract employment. This would include making plans in relation to exit strategies, implications to the workforce and potential exit costs.

Rachael Morris, HR Business Lead (People)

8 Equality Impact Assessment

8.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because:

No significant change to policy/practice at this stage. An EIA will be completed in conjunction with the detailed consultation process if ongoing changes to the eligibility criteria and/or value of the SEN Inclusion Fund are proposed.

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

9 List of background papers other than published works or those disclosing confidential or exempt information

9.1

10 Published documents referred to in compiling this report

10.1 Early Years entitlements: LA funding of providers operational guide 2021 to 2022