

SCHOOLS FORUM - 15 January 2019

Title of paper:	Early Years Special Educational Needs & Disability (SEND) Funding
Director(s)/ Corporate Director(s):	Nicholas Lee, Director of Education Services Alison Michalska, Corporate Director Children & Adults
Report author(s) and contact details:	Kathryn Stevenson, Senior Commercial Business Partner Kathryn Bouchlaghem, Early Years Service Manager
Other colleagues who have provided input:	Jon Ludford-Thomas, Senior Solicitor, Legal Services (e-mail: jon.ludford-thomas@nottinghamcity.gov.uk ; tel: 0115 87 64398)
Summary	
<p>This paper consists of a proposal for the distribution a Disability Access Funding (DAF) underspend from 2017/18 which the LA has been permitted by the ESFA to retain on the expectation that it is spent in line with the principles of DAF. This paper also proposes that any under-spend on the Early Years SEN Inclusion Fund (SEN IF) in 2018/19 be ring-fenced to support a similar distribution in 2019/20.</p>	
Recommendation(s): That Schools Forum;	
1	Gives a view on the proposed distribution of the £0.075m 2017/18 Early Years Disability Access Funding (DAF) under-spend, outlined in paragraph 2.8
2	Approves the proposal to ring-fence any under-spend in the SEN Inclusion Fund for 2018/19 in order to replicate this in 2019/20.

1 REASONS FOR RECOMMENDATIONS

- 1.1 To meet the DfE expectation that any DAF funding not paid to providers in 2017/18 is spent on services that are in line with the principles and aims of DAF.
- 1.2 To support settings more fully with additional costs related to supporting pupils with SEND access their early years entitlement.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 Disability Access Funding (DAF) was allocated to Local Authorities for the first time in 2017/18 and allocations were 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 2018 Schools and Early Years Censuses for the final allocations. However they subsequently decided that this would underfund authorities so took the decision not to adjust the original allocations.
- 2.3 The DfE recognise that authorities are likely to have received more DAF funding than they paid out to providers and stated that they expect authorities to spend any DAF funding not paid to providers in 2017/18 on services in line with the principles and aims of DAF.

- 2.4 Our DAF allocation for 2017/18 was £0.090m which equated to an estimated 146 pupils. However, schools & providers only claimed DAF for 24 pupils meaning £0.076m was un-spent as outlined in the June 2018 Schools Forum Outturn Report.
- 2.5 Beyond DAF funding, funding for early years pupils with complex SEND receive top-up funding from the high needs 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.
- 2.6 The panel also awards SEN inclusion funding at the rate of £1674 for FTE pupils with lower level or emerging SEN (£865 for PTE). This is funded from the SEN inclusion fund (SEN IF) within the Early Years Block. The LA consulted all settings on the SEN IF in September 2017. We consulted on setting the SEN inclusion fund for 3 & 4 year olds at £0.100m and estimated that up to 100 pupils could qualify. We replicated this with £0.035m for 2 year olds and also budgeted an extra contingency of £0.035m in case numbers were higher than anticipated.
- 2.7 For main school age pupils, we have a local Additional Inclusion Allowance (AIA) which provides schools with an additional £4017 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 £6000 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.
- 2.8 Proposal for distributing the 2017/18 DAF underspend
- The LA is proposing to distribute the 2017/18 DAF under-spend on a per head basis for pupils accessing the universal entitlement that qualify for HLN top-up funding in the Autumn term 2018. There are 81 early years HLN pupils and this would therefore equate to approximately £938 per pupil.
- 2.9 This funding would be for schools and PVCI providers to make reasonable adjustments to their settings to enable children with SEND to access their early years entitlement. This is in line with the principles and aims of DAF.
- 2.10 The LA is taking a number of steps to help increase the take-up of DAF including developing and implementing a robust strategy of engagement with all settings. The critical date for getting pupils registered as eligible for DAF is the January 2019 so that this is reflected in the Schools and Early Years Censuses. It is anticipated that our final allocation of DAF for 2018/19 will be based on those numbers.
- 2.11 Whilst there is unlikely to be a repeat of the DAF under-spend due to this adjustment, it is anticipated there will be a significant under-spend on the SEN IF. This is because there are significantly lower numbers accessing the SEN IF compared to the estimate, but double the number accessing HLN funding at Band A-C.
- 2.12 SEN funding for EY pupils is still in a period of transition. Whilst all new allocations are being made at the integrated panel, there are still a significant number of pupils who are having HLN funding made under funding decisions awarded under the

separate processes for schools and PVCIs. It is still possible that the balance may shift between SEN IF and HLN pupils once all decisions are based on the outcome of the integrated panel.

- 2.13 Given the potential financial pressure on settings from supporting HLN children in excess of top-up funding received, the LA would ideally like to introduce an AIA equivalent for EY pupils, subject to this being affordable.

2.14 Proposal to ring-fence any 2018/19 SEN IF under-spend

The LA is proposing to ring-fence any 2018/19 SEN IF under-spend and use this in 2019/20 to make a similar additional allocation per HLN pupil.

As the LA was required to consult all settings on the value and allocation basis for the SEN IF when it was introduced, we will need to undertake a similar consultation exercise on this proposal, if Schools Forum agree to the ring-fencing of the under-spend. This consultation will ask for views on this both as a one-off arrangement and an ongoing one, should the demand on the SEN IF be consistently lower than was originally anticipated.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 None

4 OUTCOMES/DELIVERABLES

- 4.1

5 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

- 5.1 As stated in paragraph 2.4, there was an under-spend of £0.075m of Disability Access Funding (DAF) in 2017/18. The proposal to give this out to schools and settings in 2018/19 on the basis of numbers of early years pupils qualifying for HLN top-up funding as at Autumn 2018 is designed to meet the expectation of the Department for Education that this should be spent in line with the principles and aims of DAF.
- 5.2 The SEN Inclusion Fund is funded from the Early Years Block, whereas HLN top-up funding for pupils with more complex needs is funded from the High Needs Block. It was not known at the time of setting the SEN Inclusion Fund (SEN IF) budget how many pupils would qualify for this new funding band. Currently around double the predicted number of nursery pupils are qualifying for the higher level HLN top-up funding whereas far fewer than anticipated are attracting the SEN IF. It is therefore anticipated that in 2018/19 there will be a significant underspend against the £0.170m SEN IF budget. However, a proportion of allocations in 2018/19 are still the legacy of funding agreed prior to the introduction of an integrated panel for all early years settings and the balance between pupils attracting HLN and SEN IF may change over time as the new system beds in.
- 5.3 As there is no equivalent of our local Additional Inclusion Allowance (AIA) for early years pupils, schools and settings with nursery aged HLN children can face financial pressure due to the presumption that some additional support costs are covered by

the hourly base rate funding (the equivalent to the national presumption that the first £6000 for main school age pupils is funded from delegated budgets). The second recommendation of this report would enable the LA to consult with schools and providers about providing an AIA equivalent in 2019/20 and future years, to the extent that this is affordable from the existing SEN IF budget.

6 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

6.1 Legal Implications

6.1.1 It is noted that the first recommendation set out in this report is that the Schools Forum: “*Gives a view on the proposed distribution of the £0.075m 2017/18 Early Years Disability Access Funding (DAF) under-spend...*” This fits with the School and Early Years Finance (England) Regulations 2018 since the Nottingham City Schools Forum is in a consultative role in respect of this recommendation, with the decision ultimately for Nottingham City Council (“NCC”) to take.

6.1.2 It is noted that the second recommendation set out in this report is that the Schools Forum: “*Approves the proposal to ring-fence any under-spend in the SEN Inclusion Fund for 2018/19 in order to replicate this in 2019/20.*”, although as paragraph 2.14 of this report recognises this recommendation would need to be the subject of consultation if the Nottingham City Schools Forum approves it. Therefore it is advisable that if it is to be taken forwards, the proposal to ring-fence any underspend in the Special Educational Needs Inclusion Fund for 2018/2019 in order to replicate any distribution of the 2017/2018 Early Years Disability Access Fund under-spend is the subject of full public consultation and brought back to the Nottingham City Schools Forum either for noting or for any final decision as to implementation, depending on the provisions of the school finance legislation then in force.

7 HR COLLEAGUE COMMENTS

7.1 The content of the report is noted and supported. 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. However, it should be noted, that if any of the funding is used to provide additional resource through the employment of staff, that the time limited nature of the funding should be taken into account. This may mean that employment of staff may need to be on a fixed term basis, and management within schools and in the Council need to 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.

Lynn Robinson, HR Business Partner, 06/12/18

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 there is 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

9 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

9.1 None.

10 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

10.1 N/a