



Schools Forum

Report title: Dedicated Schools Grant 2021/22 - High Needs Block

Date: 19th January 2021

Key decision: No.

Item number: 7

Outline and recommendations

This report considers the pressure on the High Needs Block and the requirement to progress towards a recovery plan with the Department for Education (DfE).

The report notes the work progressing on the mitigation plan, however the pace and associated costs of the increasing number of Education Health Care Plans (EHCPs) continues to place a financial burden on the High Needs Block

The report notes that despite an increase in funding of a net £5.987m for 2021/22, the overspend predicted for this year will continue to bring pressure.

The report provides some financial data sets and requests a transfer from the Schools Block of the maximum £1.068m to support the transition process.

Schools forum is asked to consider this report when considering the preferred option for the Schools Block recognising the statutory and regulatory nature of the work supported by the High Needs Block.

Schools forum should also note the collective duty to spend within funding allocations and note the potential urgent revision of Special Education Needs (SEN) support should the funding request not be supported.

Schools forum is asked to further note the updated DfE guidance on options for managing overspend positions including first call on funding and the need for management plans.

Timeline of engagement and decision-making

This report focuses on the High Needs Block, in particular the difficult financial position.

The report seeks Schools Forum to consider the financial position of the High Needs Block and requests a support of £1.068m (0.5%).

Schools Forum should also note the requirement for management action plan for consideration at the summer meeting (June/July).

Summary

- 1 Following on from the main settlement report, this is a specific report on the High Needs Block.

Financial position of the High Needs Block

- 2 Following a series of updates, schools forum will be aware of the continuing pressure on the High Needs Block.
- 3 The projected position of for the High Needs Block for 2020/21 is estimated to be between £4m to £5m overspend. The table below shows the level of increase in EHCP since 2017/18. The main areas of increase remain under 5s and post secondary. The 2020/21 position for January to March is estimated based on the trend position for the year.

Phase – EHCPs	Under 5s	Primary	Secondary	Post-secondary	Grand Total
FY17/18 Used As Base Line	42	831	769	537	2179
FY18/19	24	889	821	626	2360
FY19/20	37	929	887	774	2627
FY20/21 projected	106	931	990	935	2962
Increase on Baseline Numbers	64	100	221	398	783
Increase on Baseline %	152.4%	12.0%	28.7%	74.1%	35.9%

- 4 We note from the main report that the funding settlement for 2021/22 shows a net increase in funding of £5.987m. Based on the projected outturn position for 2020/21, the overspend will be a first call on next years funds. Best case scenario of £4m will leave a £1.9m balance for any new EHCP /associated pressures. A worse case of circa £5m will leave a balance of £900k.
- 5 Assuming the current trend continues it is estimated that potentially a further circa 200 EHCP could be required. At an average cost of even £12k this would result in an additional pressure of £2.4m. However depending on the “need” and provision type, the average could be higher or lower. Based on the current demand carrying on into next year and increasing, the financial position for next year could show an overspend as follows

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2020/21 Overspend (best case)	A £4m
Increase in funding	(£6m)
Funds remaining	(£2m)
2021/22 total pressure	A £4m +£2m B =£6m
Request to Schools Forum for Funding	(£1m)
Overspend requiring action	£3m
Without the extra £1m action requiring support	£4m

A = overspend expected in the base

B= new pressure (estimated increase)

- 6 Schools forum is asked to consider the request to support the High Needs Block to a maximum value of £1.068m (0.5%) as detailed in accompany reports and discueed at previous meetings. The position is summarised above. Schools forum should further note that the funding will be utilised to fund the costs of placements and is not intended to support any central functions.
- 7 In the event that the request is not supported, Lewisham will be required to consider actions to consider a higher threshold of savings including consideration of all discretionary and intervention support.

Requirements on Local Authorities to remain within budget.

- 8 Schools forum will be aware that Lewisham remains one of a few Local Authorites that has been able to stay within budget until now. The DfE is fully aware of the financial challenges facing Local Authorities and has set in place some measures.
- 9 The first measure has been to actively seek funding from the Treasury. Lewisham like other Local Authorities has seen increase in funding. As stated, the funding increase for 2021/22 is anticipated to be circa £6m. The difficulty however remains that demand (increase in EHCP, severity of needs, cost etc) is rising at a faster rate.
- 10 The DfE has issued updated guidance as part of their Schools Block Operational documents ('Schools revenue funding 2021 to 2022 – Operational Guide – updated December 2020'; and 'High Needs Funding Arrangements – Operational Guide – updated September 2020', which Guidance is to be 'reviewed in spring 2021'). This places a requirement on Local Authorities to have clear plans (management plans) outlining a recovery plan where the LA is forecasting an overspend position. **The guidance is also clear that pressure must be dealt with within the DSG and not passported to the General Fund.**
- 11 The guidance further refers to the potential impact on future years DSG allocations. Extract from the guidance is attached at Appendix A for consideration by Schools Forum.

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Schools forum to note that as Lewisham Council has not been in this position before and the guidance is relatively new, the approach set out in this report will be kept under review and appropriate advice sought if needed.

- 12 **Schools forum to note the requirement for Lewisham to complete a management action plan. This may require an extraordinary meeting of Schools Forum to agree. Discussions will be held with the High Needs Working Group in the first instance.**

Financial Implications

- 13 This report notes the challenging financial position that Lewisham council faces in delivering its statutory role.
- 14 The directive from the DfE is clear that it is not permissible to overspend and requires a management action plan to be developed. The guidance is clear that any remedial action must be borne within the DSG and not supported by the General Fund (without Secretary of State intervention)
- 15 The guidance includes in scope the potential application of future funds to support the action plan.

Equalities Impact

- 16 There are no direct implications arising from this report, however the report notes the need to rebase services within the funding available which may mean reconfiguration of services. As such, an Equalities Impact Assessment would need to be undertaken.

Legal Implications

- 17 Legal implications are set out in the the main settlement report

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Schools revenue funding 2021 to 2022 Operational guide

DSG deficits and high needs safety valve funding

296. On 30 January 2020 the department published the government response to the consultation undertaken in Autumn 2019, about clarifying the specific grant and ring-fenced status of the DSG.

297. The department has made changes to the School and Early Years (Finance) (England) Regulations 2020, in regulation 8, regulation 31 and schedule 2, to give statutory backing to a new process for handling DSG deficits.

298. A local authority must now:

- carry all of the deficit forward to set against the schools budget in the next financial year; or
- carry part of the deficit forward to set against the schools budget in the next financial year and carry the rest of it forward to the following financial year; or
- not set any of the deficit against the schools budget in the next financial year, but carry all of the deficit forward to the following financial year

299. These provisions will be repeated in future regulations so that part or all of the deficit can be carried forward further a year at a time, to be dealt with through DSG that will be received in future years.

300. If the local authority sets any part of the deficit against the schools budget for the next financial year, it must plan to eliminate that part of the deficit through funding from the DSG that it will receive during that financial year.

301. If the local authority carries any part of the deficit forward to the following financial year, that means it is not planning to eliminate that part of the deficit from DSG received in the next financial year, but will need to eliminate it from DSG received in future years.

302. Beginning in 2020 to 2021 financial year, if a local authority with a DSG deficit wishes to use general funds to eliminate any part of the deficit, or otherwise to add general funds to its schools budget, it must apply to the Secretary of State under regulation 31(1)(b) to disregard the requirement to carry deficits forward under regulation 8(7), to the extent of the amount of general funds that it wishes to use. Such disapplication requests should be sent to LA.DISAPPLICATIONS@education.gov.uk.

303. The Ministry of Housing, Communities and Local Government (MHCLG) laid the Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2020 on 6 November 2020, which then came into force on 29 November 2020. These regulations, with their explanatory memorandum, can be found at legislation.gov.uk. The regulations provide that any DSG deficit at the end of 2020 to 2021 must not be charged to a general fund but must be charged to a separate fund established, charged, and used solely for the purpose of recognising deficits in respect of the schools budget. This has the effect of separating any such deficit from a local authority's general fund. The same arrangements will apply in 2021 to 2022 and 2022 to 2023. The Chartered Institute of Public Finance & Accountancy (CIPFA) guidance can be found on the CIPFA website.

304. In 2020 to 2021 the high needs block of the DSG increased by an average of 12%, and in 2021 to 2022 it will increase by an average of 10%. Overall funding for schools and high needs, compared with 2019 to 2020, is increasing by £2.6bn in 2020 to 2021, £4.8bn in 2021 to 2022 and £7.1bn in 2022 to 2023.

305. The government response to the consultation indicated that DfE recognises that there may well be some authorities which, despite their best efforts, will still not be able

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to pay off their historic deficit from the DSG over the next few years. In these cases, DfE expects to work together with the local authority to agree a plan of action to enable the local authority to pay off its deficit over time. The department will need convincing evidence from the local authority that it would be impracticable to pay off a historic deficit from the DSG it would expect to receive in future years.

306. The agreed action plan would be designed to secure the most efficient use of resources, and depending on the situation and context could include for example:

- changes to local SEND policy or practice
- additional challenge and support to the local authority in its management of high needs and/or management change
- sign off of budget plans by DfE
- additional conditions of grant

307. It would also cover any movement of DSG from the schools block. As part of an appropriate agreed package of measures, the department will, if necessary, make funds available from within the overall total of DSG so that the local authority can pay off its deficit over time.

308. The department expects to approach selected local authorities to begin discussions with them during 2020. These discussions are likely to be detailed, and in order to make this process manageable it will be necessary to limit discussions during 2020 to 2021 to a fairly small number of authorities. The department expects to expand the discussions to other local authorities during 2021 to 2022 and subsequent years.

309. The government response also acknowledged that local authorities could experience cash flow difficulties in actually financing in-year spending as a result of a DSG deficit. By this, the department means that the local authority has actual difficulty in accessing cash, not that it has incurred loss of interest because it has had to make use of the cash. If a local authority is able to prove that it is facing such cash flow problems, specifically because of the DSG deficit, the department will consider providing funding which would then be subtracted from future years' DSG allocations. Again, this would be subject to appropriate additional conditions of grant to secure the most efficient use of resources. Adjusting the timing of funding in this way would not improve the local authority's accounting position since it would have to make provision for the future reduction in DSG. If a local authority thinks it may be eligible for this kind of arrangement, it should contact Financial.MANAGEMENT@education.gov.uk.

DSG management plans

310. An increasing number of local authorities have been incurring a deficit on their overall DSG account, largely because of overspends on the high needs block.

311. In 2019 to 2020, local authorities with a cumulative deficit of 1% or more at the end of the financial year (31 March 2019), were required to submit a recovery plan to the department to outline their plan to manage their DSG spend.

312. In 2020 to 2021, DfE extended the rules under the DSG conditions of grant so any local authority with an overall deficit on its DSG account at the end of the 2019 to 2020 financial year, or whose DSG surplus has substantially reduced during the year, must co-operate with the department in handling that situation by:

- providing information as and when requested by the department about its plans for managing its DSG account in the 2020 to 2021 financial year and subsequently
- providing information as and when requested by the department about pressures and potential savings on its high needs budget

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- meet with officials of the department as and when they request to discuss the local authority's plans and financial situation
- keep the schools forum regularly updated about the local authority's DSG account and plans for handling it, including high needs pressures and potential savings

313. DSG management plans will need to be discussed with the schools forum and should set out the local authority's plans for bringing the DSG spend back into balance. The department expects the chief financial officer and appropriate special education needs (SEN) colleagues to review and sign off the report periodically.

314. Where a local authority has a substantial in-year overspend or cumulative DSG deficit balance at the end of the financial year, its management plan should look to bring the overall DSG account into balance within a timely period.

315. The department recognises that this may prove difficult for some local authorities, particularly where they are accelerating moving their schools to mirror the NFF allocations in full.

316. Where this is the case, the department would be open to receipt of evidence explaining the pressures and will consider management plans that leave some or all of the deficit accumulated to date outstanding.

317. In all cases, the department expects local authorities' management plans to focus on how they will bring in-year spending in line with in-year resources.

318. DfE expects a range of evidence to support local authority management plans. The department will continue to review the management plan process and has provided a template DSG deficit management plan for local authorities to use. DfE expects all evidence to have been presented to schools forums.

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