

**SURREY COUNTY COUNCIL****CABINET****DATE: 17 DECEMBER 2019****REPORT OF: MRS JULIE ILES, CABINET MEMBER FOR ALL-AGE LEARNING****LEAD OFFICER: EXECUTIVE DIRECTOR FOR CHILDREN, FAMILIES, LIFELONG LEARNING & CULTURE****SUBJECT: SURREY SCHOOLS & EARLY YEARS FUNDING 2020-21****SUMMARY OF ISSUE:**

The funding of all Surrey schools (including academies) and of the free entitlement to early years nursery provision are provided from the council's allocation of Dedicated Schools Grant (DSG). Each local authority is required to consult on and maintain local formula arrangements to allocate DSG.

This report sets out the recommended funding formula for Surrey schools in 2020/21 and also proposes the principles to be adopted in the funding of early years in 2020/21.

Schools' financial challenges and reduced funding to local authorities to intervene in weak schools are creating risks as deficits on schools obliged to convert to academy status remain with the council.

Despite increases in government funding for children and young people with special educational needs and disabilities (SEND), increasing pressures in this area have necessitated a request for support from the schools funding block. This request was not supported by the Schools Forum and the Cabinet is asked to consider an appeal to the Secretary of State.

**RECOMMENDATIONS:**

It is recommended that the proposals set out in Annex 3 be approved, namely that:

1. an appeal be lodged with the Secretary of State for Education to overturn the decision of the Schools Forum and permit the transfer of 0.5% of the schools block (estimated at £3.3 million) to support high needs SEND.
2. the transition to the National Funding Formula (NFF) progresses at a steady rate to an estimated 92.5% of published 2020/21 NFF values.

3. the council implement the DfE's recommended Minimum Per Pupil Level in full.
4. the Schools Forum's formula recommendations for Schools and early years funding as set out in Annex 3 be approved.
5. the cost of additional SEN funding for inclusive schools be contained within £0.9 million per year. To achieve this, authority is delegated to the Director of Education, Lifelong Learning & Culture in consultation with the Cabinet Member for All-Age Learning to approve amendments to the schools and early years additional SEN funding and notional SEN funding formula, following discussion with Schools Forum in December.
6. authority is delegated to the Director of Education, Lifelong Learning & Culture in consultation with the Cabinet Member for All-Age Learning to approve amendments to the schools and early years formulae as appropriate following receipt of the DSG settlement and DfE pupil data in December 2019. This is to ensure that total allocations to schools under this formula remain affordable within the council's DSG settlement.

#### REASON FOR RECOMMENDATIONS

To comply with DfE regulations requiring formal council approval of the local funding formula for Surrey's primary and secondary schools.

#### DETAILS

##### **Background**

1. Dedicated Schools Grant (DSG) funding is provided to the Local Authority (LA) in four blocks covering:
  - schools
  - schools' central services
  - high needs: special educational needs and disabilities (SEND)
  - early years

The services provided within these blocks and indicative 2020/21 funding are summarised below, where published. Final funding allocations for 2020/21 will be published in December 2019 and will take into account pupil number changes between October 2018 and October 2019.

- a) **Schools:** £655 million (indicative)

The schools' block provides the funding for all Surrey's mainstream schools, including academies. Individual schools' budgets are allocated on the basis of a formula currently determined locally, albeit within Department for Education (DfE) parameters.

The DfE is phasing in a National Funding Formula (NFF) for schools. Local authorities are asked to manage this transition by adjusting their own local formulae in the direction of the NFF. In 2019/20, Surrey's formula factors comprise approximately 85% of NFF values.

b) **Schools' Central Services:** £5.9 million (indicative)

This block funds local authorities for their strategic education responsibilities for all schools (including academies). These responsibilities include whole service planning and leadership, school admissions, management of the capital programme, education welfare, and schools' formula funding.

c) **High Needs SEND:** £159.1 million (indicative)

The high needs block funds pupils with SEND. It funds Surrey's special schools, SEND centres in mainstream schools, pupil referral units (PRUs), post-16 SEND provision and education to those pupils with complex or severe needs requiring support in a non-maintained or independent special school (NMI). It provides additional funding to primary and secondary schools for pupils with SEND statements or Education Health Care Plans (EHCPs). It also funds specialist support services (e.g. physical and sensory support, speech & language therapies).

Continuing pressures in Surrey's high needs block have necessitated transfers from both the early years and schools' blocks in recent years. It is currently anticipated that at March 2020 there will be a cumulative overspend of £47 million on the high needs block, which will need to be recovered by savings in the high needs block in future years. Therefore, despite an estimated increase of £12.2 million in high needs block DSG from 2019/20 to 2020/21, the authority is proposing a transfer from schools block to high needs block in 2020/21 (similar in value to that made in 2019/20).

d) **Early Years:** £74.7 million (2019/20 estimate)

The early years block funds nursery education for two-, three- and four-year-olds in maintained schools, maintained nurseries, academies and private, voluntary and independent (PVI) settings. Funding for three- to four-year-olds is expected to be £70.1 million in 2019/20, with £4.6 million provided for two-year-olds.

### Focus of this report

2. This report concentrates on Cabinet decisions relating to schools funding and early years. It does not address pupil premium or sixth form funding as these are central government allocations, distributed via formula mechanisms determined by the DfE. Budgets for services funded by the high needs and

Central Schools Services blocks are subject to a separate Cabinet Report in line with the council's budgeting process.

### **Schools Forum**

3. The Schools Forum is a statutory body which must be consulted on the allocation of DSG. Membership is prescribed by regulations, and comprises head teachers, governors, academy representatives and 'non-school' representatives from early years providers, diocesan bodies, teaching unions, post-16 providers and SEND representatives (Family Voice in Surrey). The Forum has a largely consultative role but has decision making powers in specific areas, including the transfer of funding from the schools' block. Forum members can vote only on issues impacting on their sector. For example, academies cannot vote on issues relating to maintained schools only.

### **School Funding**

4. All mainstream schools (maintained schools and academies) are funded from the DSG. Funding is allocated to Surrey schools using a local formula that is reviewed annually by the council. Annex 2 details the funding allocated to each funding factor in 2019/20.
5. In 2020/21 the DfE has increased schools funding nationally by £2.6 billion, of which £780 million is for SEND and the remainder for mainstream schools. This was announced in late August 2019 as part of a three-year increase in schools funding. It includes minimum per pupil funding levels (MPPL) of £3,750 per primary pupil and £5,000 per secondary pupil in 2020/21. These minimum funding levels are mandatory at local level, although the government has consulted on circumstances in which the Secretary of State may allow the per pupil levels to be reduced. This is estimated to mean an increase, to Surrey, of £26 million in NFF schools funding and £12 million in high needs block funding in 2020/21.
6. The DfE has recently consulted on restricting the scope for LAs to meet overspends on DSG budgets from their own resources. In Surrey this largely affects the high needs block and increases the pressure to recover the high needs overspend within DSG.
7. The DfE is continuing to phase in a NFF to replace the individual school funding formulae of 149 local authorities.
8. Local authorities are expected to manage a smooth transition to the NFF that avoids unnecessary turbulence at individual school level by amending their local formula over time.

## Consultation with Surrey Schools on Changes from April 2020

9. In October 2019, the DfE published its NFF funding rates and provisional allocations for 2020/21. During October 2019 all Surrey primary and secondary schools (including academies) were consulted on a number of options for the 2020/21 local schools funding formula.
10. The key issues for schools to consider were:
  - a) The local schools' funding formula - including consideration of the local authority's request to transfer 0.5% of the total Schools budget (£3.3 million) to support initiatives aimed at reducing pressures in high needs SEND budgets (This is the same percentage as was transferred in 2019/20).
  - b) De-delegated services: the services for which maintained schools would consider an automatic deduction from their school's budget

### The Local Schools' Funding Formula

11. Schools were consulted on a number of proposed changes to the local formula. Annex 5 summarises the responses of schools and the Schools Forum to the consultation. Some proposals gained majority support from schools and the Schools Forum, whereas others were unsupported.
12. The following three proposals were not supported by Schools Forum:
  - transfer of £3.3 million from schools' budget to high needs (SEND) budget;
  - not implementing the full minimum per pupil funding levels;
  - reduction in the additional funding allocated to schools with particularly high numbers of children with Education Health Care Plans.

### Other School Funding Issues

13. Schools' views were sought on a number of other issues as follows:
  - a) Speed of Transition to the NFF:

Surrey's local school funding formula has been transitioning towards the new National Funding Formula over the last three years and Surrey's formula factors currently comprise approximately 85% of NFF values and 15% former Surrey values. This was considered to be the appropriate level to facilitate a 100% NFF in 2020/21, the date by which the DfE originally expected local authorities to have reached 100% compliance. However, as this deadline has been deferred by the DfE, Surrey schools were asked if they wished to defer any further progression in 2020/21 in

order to provide a longer implementation period for smaller and disadvantaged schools that are facing particular challenges in Surrey. Current proposals are for 92.5% NFF (and 7.5% old Surrey factors) in 2020/21 (assuming that the Secretary of State approves a block transfer). In the event that no block transfer was approved we would propose to use this funding to move further towards full NFF.

c) Minimum Funding Guarantee (MFG):

The MFG protects schools that might otherwise see a fall in average funding per pupil and can be set at a range between +0.5% and + 1.84% by local authorities (2019/20: -1.5% to +0.5%). Surrey has adopted a 0% MFG in recent years, i.e. no school would lose funds per pupil. Schools were again asked for their preferred option and this was an MFG of 1.84% (the maximum permitted).

d) Managing the loss of Growth Funding:

The authority currently provides, from DSG, approximately £5 million in growth funding to schools increasing their Published Admission Number (PAN), extending an age range or admitting bulge classes. A further £0.4 million is provided to support good or outstanding secondary schools experiencing a temporary fall in pupil numbers although that was to end in 2019/20. However, funding from the DfE for these costs has reduced in recent years. Schools supported a transfer of funding from NFF, if necessary, to allow growth funding for extra classes to be maintained at current rates in 2020/21.

e) Other changes

A few minor changes were proposed including:

- changing the method for funding pupil mobility to reflect technical changes made by the DfE;
- changing the way in which SEND funding is distributed to mainstream sixth forms;
- measures to mitigate the loss of part of the former “combined services” funding stream (a funding strand being reduced by the DfE, which was previously delegated to schools over and above the NFF).

14. Annex 3 summarises the recommendations to the Cabinet. Decisions made by the Schools Forum – some of which are subject to appeal by the local authority – are listed in Annex 4. The Surrey schools funding formula factors and their proposed provisional values are set out in Annex 6.

## De-Delegated Services

15. The Schools Forum can agree on behalf of all Surrey maintained primary and secondary schools to automatically deduct funding from individual schools' budgets to provide specific services. These include behaviour support, Capita SIMS licences, free school meals eligibility checking and the maintaining of central funds to support school improvement and exceptional expenditure in primary schools. Prior to this decision – which must be made annually – all schools are consulted. The majority of proposals were supported. The outcome of schools' responses and the Forum's decisions are summarised in Annex 5. De-delegation arrangements are not permitted to be introduced for academies or special schools.

## Early Years

16. Local authorities receive funding (currently estimated to be £70.1 million in 2019/20) from the DfE for free nursery entitlement for three- and four-year-olds through the early years block of the DSG. The DfE funds local authorities for three- and four-year-olds on the basis of an hourly rate and requires local authorities to fund providers via a formula. The council consulted providers during October and November on changes to early years funding for 2020/21.
17. DfE has increased its hourly funding rates to local authorities by 8p per hour from 2019/20 to 2020/21 (approximately 1.5% for Surrey).
18. Early years providers must be funded on a termly count whereas the DfE funds local authorities using the average of successive January counts (i.e. annual counts). Thus, the termly variation in take-up is a budget risk and a contingency is maintained for this purpose. Following a review of this contingency, £2 million has been released to allow an increase in the inclusion fund (which provides additional funding to providers to support disadvantaged children and promote early intervention) to £3.4 million in 2020/21. This proposal was supported by the sector and by the Schools Forum.
19. Local authorities can retain up to 5% of the early years funding for three- to four-year-olds centrally in 2020/21 (the same level as retained by Surrey in 2019/20); the remainder must be passed on to individual providers. Following general support from the sector, the Forum has agreed that in 2020/21 the local authority could retain 5% of the early years grant for three- to four-year-olds to manage the sector and support providers, which includes a sum to establish a separate SEN inclusion fund for two-year-olds.
20. Following majority support from early years providers in the October-November 2019 funding consultation, Schools Forum also supported an increase in all funding rates in the early years funding formula by 1.5%, which are expected to be affordable within the anticipated DfE funding:

- basic hourly rates for three- and four-year-olds will increase from £4.65 to £4.72;
- hourly deprivation funding rate will increase from £2.77 to £2.81.

Additionally, funding rates for free meals provision for eligible children in maintained and academy nurseries will be increased from £1.66 to £2.35 (in line with current costs).

21. There is a separate DfE grant allocation for two-year-olds. This has increased from £5.88 per hour in 2019/20 to £5.96 per hour in 2020/21. The council has funded providers for two-year-olds at the DfE hourly rate. It is recommended that the rate paid to providers increases to £5.96 per hour in 2020/21.

### **Fine-Tuning of Schools and Early Years Formulae Following DSG Settlement**

22. At this stage, proposed formula values can only be provisional as DSG funding will be based on pupil numbers collected in the October 2019 pupil census – data which is unavailable to local authorities until late December 2019. The DfE therefore enables local authorities to fine-tune our proposed formula values by 21 January 2020, to ensure the formula is affordable within the funding settlement.
23. Fine-tuning of the formulae at that time will be considered by the Director of Education, Lifelong Learning & Culture in consultation with the Cabinet Member for All-Age Learning.

### **CONSULTATION:**

24. Following receipt of the DfE's updated guidance and illustrative funding in October 2019, a Schools Funding Consultation paper was distributed to all schools during October detailing options for the funding of Surrey schools in 2020/21. A total of 168 schools submitted responses by the deadline, representing 43% of schools. Schools' collective responses and comments were discussed at the Surrey Schools Forum on 14 November when recommendations and decisions were made. These are set out in this report.
25. This year the early years formula consultation was undertaken at the same time, in October/November 2019. Responses were received from 109 early years providers with majority support for all proposals. Accordingly, they are all recommended by Schools Forum for approval by Cabinet.

### **RISK MANAGEMENT AND IMPLICATIONS**

26. Schools are funded by DSG. Primary and secondary schools are funded from the schools' block within DSG, with the high needs block funding special schools. The proposals in this report recognise continuing demographic and



inflationary pressures in the high needs block and the SEND Transformation Programme, developed to address these issues, gained widespread support from schools when first proposed in 2018.

27. A request to schools to transfer £3.3 million from the schools' budget to high needs SEND was refused by the Schools Forum. Subject to the approval of Cabinet, the local authority is to appeal to the Secretary of State to overrule that decision. Should the appeal not be upheld the future high needs block overspend will increase further.
28. Schools' financial challenges and reduced funding to local authorities to intervene in weak schools are creating risks as deficits on schools obliged to convert to academy status remain with the council.

#### **FINANCIAL AND VALUE FOR MONEY IMPLCATIONS**

29. The latest 2019/20 High Need Block (HNB) DSG forecast is an overspend of £29 million, including £3 million one-off transfer from the schools block DSG, approved by the Secretary of State last year. This will lead to a £47 million cumulative HNB DSG overspend at the end of the year.
30. The SEND transformation programme is working to reduce the 2020/21 annual spend. This is ambitious since the demand for services is currently growing by 13%. This growth plus savings along with additional 2020/21 HNB DSG of £12 million will reduce the in-year overspend to £24 million and the cumulative deficit at 31 March 2021 would still be extremely high at £71 million. Therefore, the authority is proposing an appeal to the Secretary of State to transfer £3.3 million from schools' block DSG to HNB DSG in 2020/21.
31. Schools are expected to operate within the funding provided. Where an individual maintained school faces financial problems, the local authority can approve a licensed deficit and will develop a recovery plan for repayment in a specified term – usually from one to three years. If a maintained school became financially unviable then the council would be required to step in to address issues. This could involve a review of the school's management and/or a review of wider educational provision in the area. Schools are subject to regular monitoring and the local funding formula is reviewed on an annual basis to assess scope for potential amendments within DfE controls.
32. As at 1 November 2019, a total of 169 schools have converted to academy status (118 primary, 41 secondary and 10 special) and there are six free schools in Surrey. Responsibility for the financial viability of academies and free schools lies with the Government's Education & Skills Funding Agency (ESFA) rather than the county council.

## SECTION 151 OFFICER COMMENTARY

33. Although significant progress has been made over the last 12 months to improve the council's financial position, the medium-term financial outlook is uncertain as it is heavily dependent on decisions made by central government. With no clarity on these beyond 2020/21, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term. As such, the Section 151 Officer supports the proposals within this report. The outcome will be factored into the Medium-Term Financial Strategy in particular in relation to the proposed transfer to the high needs block.

## LEGAL IMPLICATIONS – MONITORING OFFICER

34. The proposals comply with the Department for Education Regulation requirements and legislation and have been arrived at following consultation with Schools Forum.
35. There is uncertainty due to the unknown outcome of an appeal to the Secretary of State. If the appeal is unsuccessful any steps to achieve remedial savings to avoid future high needs block overspend may require public consultation and cabinet approval unless authority to approve these has been delegated to the Director of Education, Lifelong Learning & Culture and the Cabinet Member.
36. Cabinet should give due regard to the responses to the consultation before considering the recommendations put before Cabinet.
37. The best value duty is contained in section three of the Local Government Act 1999, as a result of which the council is under a duty to make arrangements to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The relevant guidance states that councils should consider overall value, including economic, environmental and social value when reviewing service provision.
38. The public sector equality duty (section 149 of the Equality Act 2010) applies to the decision to be made by Cabinet in this report. There is a requirement when deciding upon the recommendations to have due regard to the need to advance equality of opportunity for people with protected characteristics, foster good relations between such groups, and eliminate any unlawful discrimination. These matters are dealt with in the equalities paragraphs of the report and in the attached equalities impact assessment.

## EQUALITIES AND DIVERSITY

39. Equality Impact Assessments (EIA) have been completed and set out in Annex 7.

## OTHER IMPLICATIONS

40. Corporate Parenting/Looked After Children

Additional funding is provided to all schools with looked-after children. Funding levels are to be maintained in 2020/21.

## WHAT HAPPENS NEXT

The next steps are as follows:

### Schools' Funding Formula

41. Should the Cabinet approve the action, the local authority will apply to the Secretary of State to overrule the Forum's refusal to transfer 0.5% of the Schools budget (£3.3 million) to support high needs SEND. A provisional application has been submitted, in order to meet the DfE deadline of 28 November. A response is expected prior to the DfE's deadline for submission of schools' budgets of 21 January 2020.
42. The DfE will provide local authorities with updated pupil data at school level during December 2019 and confirm the council's DSG funding. The council may then make fine-tuning adjustments to its schools' funding formula to ensure it is deliverable within the updated funding by 21 January 2020.
43. Schools maintained by Surrey County Council will receive their individual schools' budgets from the council by the end of February 2020. Academies will be notified of their funding separately by the Education and Skills Funding Agency (ESFA). This will be based on the council's funding formula.

### Early Years Funding Formula

44. If approved by the Cabinet, the hourly rates will be subject to fine-tuning if necessary following receipt of census data and published by 31 March 2020.

### **Contact Officer:**

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### **Consulted:**

Leigh Whitehouse, Executive Director of Resources

The Surrey Schools Forum

All Surrey schools – via the Schools Funding Reform Consultation, issued October 2019

All Surrey early years providers (for the early year funding changes)

**Annexes:**

- Annex 1 Movement between DSG blocks
- Annex 2 Allocation of Schools Funding Across Formula Factors
- Annex 3 Recommendations to Surrey County Council Cabinet
- Annex 4 Schools Forum Decisions
- Annex 5 Surrey Schools' Funding Consultation October 2019
- Annex 6 Proposed Surrey Schools Funding Formula Factors 2020/21
- Annex 7 Equalities Impact Assessment

**Sources/background papers:**

- The National Funding Formula for Schools and High Needs, Policy document, Department for Education, September 2017
- The National Funding Formula for Schools and high needs 2019-20 Department for Education, July 2018
- 2019/20 Schools revenue Funding Operational Guide, DfE September 2019
- The School & Early Years Finance (England) (no 2) Regulations 2018
- The Education Act 2002
- The Education Act 2011
- The Schools Standards & Framework Act 1998
- Schools' Funding Consultation: Proposals for Changes in 2020/21 Surrey County Council, October 2019
- Early Years Entitlements: Local Authority Funding of Providers, Operational Guide 2018-19, Department for Education November 2017
- The Dedicated Schools Grant conditions of grant, DfE December 2018