

# **DIRECTOR OF EDUCATION, LIFELONG LEARNING AND CULTURE DECISION**

## **Decision:**

Changes to the funding arrangements for providing additional discretionary SEN funding

### **(i) Director consideration and statement**

As the Director for Education, Lifelong Learning and Culture, I have delegated responsibility from the Leader and Cabinet for decisions related to schools funding formula, in consultation with the Cabinet Member for All-Age Learning.

I am being asked for my approval to implement changes to the funding arrangements for providing additional discretionary SEN funding to a minority of mainstream schools and to agree the implementation timescale.

I have considered and taken into account the rationale for changing the current discretionary funding arrangements, the statutory responsibilities of the local authority regarding High Needs Block funding, the analysis of the responses to the consultation on proposals to change the funding arrangements (Annex A), the feedback and views of the Schools Forum 12 January 2021 (Annex B), the views of Family Voice Surrey on the proposals (Annex C), the equality impact assessment (Annex D) as well as the recommended mitigations to enable schools to prepare that are set out below.

The details of my decision are set out below.

### **(i) Details of decision**

The Director of Education, Lifelong Learning and Culture, in consultation with the Cabinet Member for All-Age Learning, after considering and taking into account all items listed above

1. agreed to withdraw the existing arrangements for payment to mainstream schools of additional discretionary funding delivered through the Surrey local funding formula from 1 April 2021;
2. agreed to provide a full term of transitional funding for the existing schools eligible in 2020/21 during the Summer 2021 term in order to prepare for the changes i.e. the existing 69 schools that currently receive funding will continue to receive their existing funding levels until the end of the summer term 2021.
3. agreed to convene a small advisory group of school leader representatives from Schools Forum including the Chair of the Forum and Vice Chairs or their representatives to make recommendations to the Director for Education, Lifelong Learning and Culture on the mechanism for identifying those schools currently who will receive transitional funding for whom the withdrawal of funding in September 2021 would be too onerous and recommend a mechanism for supporting these schools from September 2021.
4. agreed to ensure that communication with schools will be timely in order to make appropriate arrangements for the start of the 2021/22 academic year based on the recommendations of the advisory group.

## **(ii) Reasons for decision**

The government expects a mainstream school to fund from its core budget the first £6,000 of support required to meet a child's additional educational needs whether the child has an education health and care plan (EHCP) or is at 'SEN support.' Schools' core budgets include funding based on measures of additional educational need so that, in general, schools with higher incidence of additional need (and typically of SEN) will receive higher average funding per pupil. In Surrey, this additional need funding is closely linked to national funding formula factors.

However, local authorities have discretion to provide additional funding to assist mainstream schools in which funding the first £6,000 of support for every child with an EHCP might be extremely onerous. This would typically be where the number of children with EHCPs is very high relative to the general level of need in the school. This is only necessary in a minority of schools.

The Department for Education (DfE) advises that local authorities that distribute funding in this way should use a "simple and transparent, consistent and fair" distribution mechanism. Surrey has a formula for this purpose which in financial year 2020/21 distributed £1.0m to 69 schools.

The current funding formula is:

£6,000 x number of EHCPs less level 2 notional SEN budget (modified for minimum funding guarantee where appropriate) less 30% of minimum per pupil level (MPPL) supplement.

Funding is allocated at the start of each financial year in April based on the previous October data regarding the number of children with EHCPs on roll at a school.

The Director for Education, Lifelong Learning and Culture considered the feedback from the consultation, the Schools Forum and Family Voice and the main potential impacts raised regarding funding changes. These are set out in turn.

### **Financial and administrative impacts on schools**

Schools have a responsibility to fund the first £6,000 of provision to meet a child's additional educational needs from their core budgets. Schools with higher numbers of children with additional needs receive higher pupil funding to reflect this.

The Director for Education, Lifelong Learning and Culture considered fully the responses, in the consultation and Schools Forum, that emphasised the financial pressure all schools are facing. They reflected that the discretionary SEN funding, while not targeted at individual children, contributed to their overall budget and eased those pressures.

While fully acknowledging the reality of the financial pressures some schools face, the Director took account of the equality impact analysis that confirmed that for the significant majority of the schools receiving funding in 2020/21, this funding accounts for overall a very small proportion of their budget. Furthermore, of the 45 maintained primary schools which received additional SEN funding in 2020/1 and in 2019/20 26 had in year revenue surpluses. Further detail is provided in the consultation (Annex E).

As a result, the financial impact is likely to be correspondingly low, and one in which schools will be able to manage within their budgetary controls. The Director is satisfied that the

removal of the discretionary funding will not make it too onerous for the majority of schools to fund the first £6,000 of a pupil's EHCP and is satisfied that there will be a mechanism in place for those schools identified where it would be too onerous as set out in recommendation 3.

The Director took account of the equality impact analysis that confirmed that a notable proportion of the schools receiving discretionary funding through this mechanism had revenue surpluses which would indicate that they could provide additional means to manage within their budgetary controls.

The Director also took account that the distribution mechanism provides the funding in arrears. As a result, the Director concluded that there is no direct link between the funding and the activity it was meant to fund in terms of supporting children with additional educational needs. The Director concluded that a more targeted approach to the use of funding would be more effective use of resources.

The Director considered arrangements to give schools time to prepare for the withdrawal of the funding mechanism and agreed that notice to schools within one week of the decision, and a full term of (pro-rata) discretionary funding in the Summer term 2021, would give schools sufficient time to prepare. There would be no additional administrative burdens placed on schools to implement these arrangements.

### **Impacts on children with SEND and inclusion**

The feedback from Family Voice and parents and carers through the consultation raised concerns about the direct impact on individual children with SEND if the funding mechanism was changed. The Director for Education, Lifelong Learning and Culture considered the concerns, and also the equality impact assessment of the proposal to withdraw this funding.

The Director took account of the fact that the £1m of additional funding is not targeted at individual children with additional educational needs. Rather, funding from the High Needs Block for individual children with an Education, Health and Care plan is specifically related to the provision set out in an individual child's plan. Funding provided to schools by the national funding formula is expected to be sufficient to meet the first £6,000 of an individual child's additional educational needs.

The Director considered that the Council also supports schools through a systemic approach to meet the needs of all children and especially those with special educational needs and or disabilities. A review of banding is underway in special schools and this is being extended over the course of the next year to cover mainstream settings including specialist units and centres. This is to achieve more effective funding arrangements to meet children's needs and provide schools and settings with more flexibility and support to do so. The Council is also investing an additional £80m capital to ensure more children and young people with special educational needs can be educated in state maintained schools and closer to their homes. This will result in between 200-700 additional specialist SEN places available from September 2021 and between 1,100 and 1,600 over the next 3-4 years.

This significant funding, is supporting the school system to provide more effective support for all children, and to meet a greater number of children with additional educational needs within Surrey mainstream settings, including specialist settings. As a result of this significant investment in early and specialist provision, the Council is projected to spend £175m on high needs expenditure in 2020/21, £33m in excess of the available grant funding; funding that has been directly spent on meeting the needs of children with additional needs.

The Director again took account that the distribution mechanism provides the funding in arrears.

The Director considered, on balance, the significant funding for individual children with additional educational needs through schools' core funding and through Education, Health and Care plans, as well as the equality impact assessment.

The Director took account of the analysis that the schools receiving this funding currently do not reflect higher incidence of pupils from ethnic minorities or high levels of deprivation or high overall levels of SEND.

### **(iii) Ongoing review**

The Council will keep this decision under review and may at a future point consult the Schools Forum on a new distribution method for discretionary SEN funding.

### **(iv) Details of any alternative options considered and rejected**

Maintaining the funding arrangements; implementing the changes at a date later than the start of the new financial year in April 2021.

### **(v) Details of any consultation and representations received not included in the published report**

The Director took account of the written petition received on 5 January 2021.

### **Conflicts of Interest and any Dispensations Granted**

None.

### **Decision taken by:**

**(i) Name: Liz Mills**

**(ii) Role: Director for Education, Lifelong Learning and Culture**

### **In consultation with:**

**Name: Julie Iles**

**Portfolio: Cabinet Member for All-Age Learning**

**Date of Decision:** 29 January 2021

**Date of Publication of Record of Decision:** 29 January 2021

**Date decision effective:** 29 January 2021

**Annex A:** analysis of the responses to the consultation on proposals to change the funding arrangements

**Annex B:** the feedback and views of the Schools Forum 12 January 2021

**Annex C:** the views of Family Voice Surrey on the proposals

**Annex D:** the equality impact assessment

**Annex E:** the consultation