

Decision maker:	Cabinet member young people and children's wellbeing
Decision date:	Tuesday 10 April 2018
Title of report:	High Needs Budget 2018/19
Report by:	Senior finance manager schools

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

(All Wards);

Purpose and summary

The report sets out the expected financial position for Herefordshire's high needs budgets for three years from 2018/19. If current trends were to continue high needs expenditure, particularly high needs top-ups paid to schools, is forecast to overspend by £1m in 2018/19, £1.5m in 2019/20 and £2m in 2020/21. This report recommends actions for 2018/19 and 2019/20 to ensure expenditure remains within budget for the next two financial years whilst a fundamental review of high needs services and costs is undertaken. During this period the high needs expenditure will be reviewed regularly to ensure the savings are delivered and further action will be taken if necessary.

Recommendation(s)

That:

- (a) the High needs tariffs to mainstream and special schools be revised to a five point range (Option B) from 1st April 2018 (Post-16 providers from 1st September 2018) to save approx. £300k as follows

Revised Tariff	Assessment Points	Funding 2018/19
Local		£
Offer	0-9	0
A1	10-14	680
A2	15-19	1,360
B1	20-24	2,355
B2	25-29	3,349
C1	30-34	3,937
C2	35-39	4,525
C3	40-44	5,113
C4	45-49	5,700
D1	50-54	6,568
D2	55-59	7,435
D3	60-64	8,303
D4	65-69	9,170
E1	70-74	10,115
E2	75-79	11,060
E3	80-84	12,005
E4	85-89	12,950
F1	90-94	14,028
F2	95-99	15,105

F3	100-104	16,183
F4	105-109	17,260

- (b) Tariffs for the pupil referral service remain fixed until the end of the current contract with the Herefordshire Integrated Behaviour Outreach Service (HIBOS) at which point the tariff allocations are revised with the purpose of reducing the current cost of the service by £50k pa;
- (c) Charges to schools be increased for Pupil Referral Unit services as follows
- (i) Key Stage 4 placement one-off charge increased to £7k from September 2018
 - (ii) Increased charges for Key Stage 3 and primary intervention be agreed with HIBOS for implementation from April 2018 to save £25k pa;
- (d) Budget reductions for the SEN Support services of £50k pa for SEN support and £15k pa for the equalities team be approved from April 2018;
- (e) The cost of a place at the resource units at Hampton Dene and Bishop's schools be decreased to £6k pa as required by the operational guidance received from the DfE for 2018/19 to save £160k pa;
- (f) The surplus funding of £324k retained in the schools block be transferred to the high needs block for 2018/19;
- (g) Further work to review the high needs services and costs be commissioned in conjunction with the School Forum's Budget Working Group (BWG) and secondary and primary Headteachers to ensure that high needs expenditure is within the available funding from April 2020 onwards and the working group reports progress regularly to schools forum
- (h) the short term action plan set out in the schools consultation paper be amended as follows
- i) the proposal that the SEN protection scheme be funded from a top-slice in school budgets from April 2019 be withdrawn; and
 - ii) the cap on the SEN protection scheme be gradually raised from £120 x number on roll in 2017/18 to £130 x number on roll in 2018/19 and £140 x number on roll in 2019/20 and potentially subject to further consultation £150 x number on roll in 2020/21
 - iii) the SEN protection scheme be restricted to primary schools only
 - iv) that an economies of scale reduction to all new and amended tariff payments to mainstream schools be withdrawn for 2018/19 and the Budget Working Group consider alternative options for inclusion in the autumn 2018 consultation as necessary
- (i) Further consultation with schools be agreed for the autumn term 2018 setting out further proposals for the high needs services for 2019/20
- (j) The high needs budget including the savings as above be approved as set out in Appendix 2.

Alternative options

- Options are limited for implementation from April 2018 but will include a modest reduction in expenditure in the SEN protection scheme and further price increases for the services identified in the consultation paper. These have been discussed with the Budget Working Group (BWG) and Schools Forum in March. Additional options will be developed by the BWG for further consideration in autumn 2018 and implementation in 2019/20 as necessary.
- The options included in this report are those options that deliver immediate cost savings in 2018/19 and have been discussed fully with the BWG and Schools Forum. The following options have been discounted as either infeasible or delivering an unacceptable reduction in service with insufficient notice for implementation in 2018/19 (i) more radical changes to the tariff structure such as funding each tariff point value separately (ii) implementing the economies of scale model for all existing tariffs, (iii) abolishing the SEN protection scheme.
- The BWG considered two options for the existing tariff bands A to F to be split. Option A would split each band into two and was projected to save £200k a year. Option B would split the current bands into smaller bands each spanning 5 assessment points. This was projected to save £300k a year.
- Following discussion the BWG preferred option B as it would deliver greater savings and allow more cover in the event that demand was greater than projected. It was cautioned that there would be more complex administration and as the tariff bands would be narrow there might be incentive for schools to push for an additional couple of points on an assessment in order to move a child up a band. On a vote the BWG supported implementation from April 2018 rather than September 2018 by six votes to two.
- BWG discounted the alternative recommendation for revised tariffs (Option A) i.e.
- The High needs tariffs to mainstream and special schools be revised to include a lower and upper band from 1st April 2018 Post-16 providers from 1st September 2018) to save approx. £200k as follows

Revised Tariff	Assessment Points	Funding 2018/19
Local Offer	0-9	£ 0
A1	10-14	680
A2	15-19	1,360
B1	20-24	2,355
B2	25-29	3,349

C1	30-39	4,525
C2	40-49	5,700
D1	50-59	7,435
D2	60-69	9,170
E1	70-79	11,060
E2	80-89	12,950
F1	90-99	15,105
F2	99+	17,260

7. At this stage the financial strategy is to ensure the high needs budget remains in surplus until April 2020 and actions are identified to reduce the expenditure from 2020/21 onwards when the forecast expenditure begins to exceed income.

Key considerations

8. The council's high needs budget is funded by the DfE through the Dedicated Schools Grant. The high needs budget is forecast to overspend in 2017/18 and this overspend is set to increase in 2018/19 and in the years beyond if no remedial action is taken and present trends continue. The potential overspend in 2018/19 is estimated at £1m rising to £2m by 2020/21 if current expenditure trends continue and no action is taken.
9. The proposals set out in the schools consultation paper (Appendix 1) are planned to ensure that the high needs budget remains in surplus until financial year 2020/21 and hence provides a two year window to fundamentally change the service delivery model to ensure the high needs model is deliverable within the DSG funding envelope.
10. In addition to the five proposals set out in Appendix 1, a further proposal 6: Economies of scale on tariff payments has been developed.
11. Headteachers have rejected the top-slicing of schools budgets and preferred the gradual implementation of an "economies of scale" factor to be applied to all tariff payments for new pupils/students and tariff amendments from the new academic year in September 2018. Headteachers accepted that it would be possible for schools to use high needs teaching assistants or other provision more efficiently. Please note it is the school/post 16 provider that has to make the economies and that the child/young person needs to have access to the provision detailed in their EHC plan.
12. The BWG didn't wish to proceed with this option and preferred to consider alternatives at a future meeting. The proposed model was as follows

Number of FTE high needs pupils/students	Average reduction %	Number of FTE high needs pupils/students	Average reduction %
1	0.00	13	14.49
2	4.18	14	15.08
3	5.92	15	15.65
4	7.25	16	16.20
5	8.37	17	16.73
6	9.35	18	17.25
7	10.25	19	17.75
8	11.07	20	18.23
9	11.83	21	18.71
10	12.55	22	19.17
11	13.23	23	19.62
12	13.87	24	20.06

13. For example a primary school with 10 existing high needs pupils and 2 new pupils in September 2018 would have a reduction of 4.18% applied to the tariff payments for the two new pupils for example 2 pupils at tariff C1 is 2 x £4,525 i.e. a payment of £9,050 less a reduction of 4.18% i.e. £378.29. (Note the whole numbers for pupils in the example, in practice the reduction will apply to the monthly payment using a composite monthly FTE calculation).
14. Assuming 2 existing pupils leave and a further 2 new pupils start September 2019 on tariff C1 the payment would be 4 x £4,525 less a reduction of 7.25% i.e. a reduction of £1,312.25. Reductions will be taken on the full value of the top-up payments (including element 2 where applicable for post-16 students) on a monthly basis.
15. The Schools Revenue Funding 2018 to 2019 operational guide sets out the evidence that schools forum must consider in order to approve the transfer of funding from the schools block to the high needs block, i.e. the transfer of £324k from the schools budget to the high needs block set out in recommendation (f). Schools Forum agreed at the January meeting not to distribute this sum to schools pending consultation with schools and a decision in March.
16. The DFE advise that any proposal to transfer funding from the schools block should be presented along with a range of evidence to back up the proposal, both to schools as part of the local consultation, and to the schools forum in seeking their approval. Schools

Forum discussions should include appropriate representation from special schools and other specialist providers. The DfE expect the evidence presented to the schools forum to include the following:

- details of any previous movements between blocks

No previous inter block movements in Herefordshire

- a full breakdown of the specific budget pressures that have led to the requirement for a transfer.

This is set out in detail in the schools consultation paper and mainly arises from a significant increase in top-up payments to mainstream and special schools

- a strategic financial plan setting out how the local authority intends to bring high needs expenditure to levels that can be sustained within anticipated future high needs funding levels.

A strategic (short term) plan provides for a two year window for the development of a more fundamental and considered plan to ensure that high needs expenditure is within budget from April 2020 onwards

- as part of the review and planning process, the extent to which collaborative working is being developed as a means of securing suitable high needs placements at a cost that can be afforded.

Collaborative working is proposed through a Headteacher working group to undertake the fundamental high needs service review. Joint working with placements is through the existing Section 75 joint agreement with health.

- how any additional high needs funding would be targeted to good and outstanding primary and secondary schools that provide an excellent education for a larger than average number of pupils with high needs, or to support the inclusion of children with special educational needs in mainstream schools.

It is proposed that Herefordshire's SEN Protection scheme will be restricted to primary schools only in the future and this will be subject to further review and consultation with schools to deliver an affordable scheme.

- details of the impact of the proposed transfer on individual schools' budgets as a result of the reduction in the available funding to be distributed through the local schools funding formula

There is no impact on school budgets for 2018/19 as the funding proposed to be transferred is surplus one-off funding arising from a reduction in the number of pupils receiving low prior attainment funding. The council's autumn consultation with schools set out plans to adopt the national schools funding formula in full from April 2018 and the final budgets issued to schools met this commitment.

- the extent to which schools more generally support the proposal, including the outcome of local school consultations

Of 22 responses received from schools only one was against this proposal. Most of the responses from secondary stressed it must be a one-off and agreed in future. Of the 19 responses regarding a continued top-slice in 2019/20 eight (43%) were in favour and was seen as supporting inclusion. Three responses declined to give a view.

17. If the proposed transfer to the high needs block is not accepted by Schools Forum for 2018/19 further savings in the high needs block will be implemented in order to ensure the budget remains in balance. This will possibly include further cost reductions in the SEN Protection scheme.
18. Schools Forum recommends to the Cabinet Member that the 2018/19 high needs budget as set out in Appendix 2 is approved.

Community impact

19. The proposed reductions in funding will impact on vulnerable children unless schools use their delegated funds and/or balances to meet the shortfall. Further consultation will be required with parents of high needs pupils and the wider community. The short term action plan set out in the recommendations will not have any impact on the council's priority objective to keep children and young people safe and give them a great start in life. There will be no particular impact on Looked After Children or any health and safety implications. Governing bodies of schools are responsible for decisions to commit expenditure according to meet pupil's individual needs within the total funding allocated to the school

Equality duty

20. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
21. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.
 22. Any potential detrimental impact on vulnerable pupils will be managed by school governing bodies prioritising vulnerable pupils within the school's grant income.

Resource Implications

23. If the recommendations are approved the high needs budget will remain in surplus for financial years 2018/19 and 2019/20. The forecast shortfall in the DSG high needs block arises in 2020/21 and is not reflected in the current Medium Term Financial Strategy. The next edition of the MTFs will include the £700k potential shortfall in funding in the event that the council may have to contribute funding. Advice will be sought from the DfE should this become necessary. Every effort is being made to avoid a contribution from Council

budgets as this is a national schools funding formula for schools and settings. The early action described in this paper is designed to minimise this risk.

24. If the recommendations are not approved the high needs budget will potentially overspend in 2018/19 by £1m.
25. The costs are clearly set out in the schools consultation document and potentially place an additional cost pressure of at least £700k pa from April 2020/21 if the funding review cannot deliver further savings.
26. The council continues to lobby through the f40 campaign group for additional high needs funding
27. The impact on DSG Reserves is set out in the table below. For financial reasons the council's preference is for Option B.
 - a. Option A sets out the impact of the savings set out in the report including changing the tariffs into upper and lower tariff bands i.e. A1, A2, B1, B2, C1, C2, D1, D2, E1, E2, F1 and F2 which saves approx. £200k pa.
 - b. Option B, which provides greater financial security changes the tariff into five point bands i.e. A1, A2, B1, B2, C1-C4, D1-D4, E1-E4 and F1-F4 which saves approx. £300k pa and provides and higher level of DSG reserves in March 20 to meet the in-year deficit going forward.

The impact on DSG reserves is set out in the table below	Option A	Option B
	Altern've	Recom'd
Financial year 2018/19	£'000	£'000
a. Uncommitted DSG Balances at March 2018	800	800
b. Forecast Overspend 2018-19 (£216k+£96k)	-312	-312
c. Savings - revised Tariffs from April 2018	200	300
d. Savings - increase SEN protection cap to 130	67	67
DSG Balances March 2019 - surplus	755	855

Financial year 2019/20

f. Forecast Overspend 2019-20 (£504k+£288k)	-792	-792
g. Savings from 2018/19 c/forward	292	392
h. Savings increase SEN Protection scheme cap to 140	36	36
j. Less one off school surplus	-324	-324
k. Less one off return from Barrs court	-40	-40
l. Add additional high needs income from DfE	250	250

m. Increase of 5% in hospital education	-15	-15
n. Independent special schools	-100	-100
DSG Balances March 2020 - surplus	62	262

In year deficit 2019/20	(693)	(593)
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2020/21 - Full review and remodel of high needs implemented

Legal implications

28. This is a key decision which can be taken by the Cabinet Member under the provisions set out in section 3.3.15 (i) of section 3 of the council's constitution.
29. The council has statutory duties to deliver provision for children and young people with high needs which includes special educational needs and disabilities from early years to age 25.
30. The DSG is a ring fenced grant from the DfE, the majority of which is used to fund individual school budgets in maintained schools, academies and free schools. This includes provision for pupils with high needs in both special and maintained schools.
31. The government revenue funding guidance for 2018/19 allows up to 0.5% of the schools block to be transferred subject to the agreement of Schools Forum and consultation with schools. The £324K recommended to transfer in this report is within this 0.5% limit.
32. Changes to the high needs funding provision could leave the council open to legal challenge, through ombudsman complaint or appeal to the Special Educational Needs and Disability Tribunal if children, young people or their families feel that the required specialist provision is not being met with the funds available. The reports sets out that the council is actively consulting and working with school settings to ensure that effective sustainable provision is maintained.

Risk management

33. There is a risk that the Budget Working Group of Schools Forum will be unable to develop a new action plan that will be within budget constraints and/or that the planned short term savings will not be effective in containing high needs expenditure. The BWG will report regularly to both Schools Forum and the Director of Children's Services to ensure that progress in developing a new action plan is on track. In the event that there is slippage the risk of overspend will be managed by seeking School Forum's and/or the secretary of state's approval of a top-slice of school budgets. Alternatively other cost saving measures will be identified for consultation and implementation.
34. Risks will be managed initially at a directorate level by the Director of Children's Services. The risk will be included in both the directorate and corporate risk registers.

Consultees

35. All schools have been consulted on the proposals and will be informed of the decisions prior to the summer term. The table below sets out the responses.

Question	Special schools	Primary schools	Secondary schools
Q1. Revisions to the high needs tariffs – introduce upper and lower tariffs for each current tariff	Yes 3 No 0	Yes 9 No 1	Yes 9 No 0
Q2. Implement the revised tariffs for special schools, resource units and the PRU but protect by the Minimum Funding Guarantee	Yes 3 No 0	Yes 9 No 0	Yes 8 No 1
Q3. Transfer £324k of surplus funding from the schools block to high needs for 2018/19	Yes 3 No 0	Yes 8 No 1	Yes 9 No 0
Q4 Increase charges to schools for the PRU (Key stage 3 and Key stage 4) and primary intervention services	Yes 2 No 0	Yes 9 No 0	Yes 8 No 1
Q5. SEN protection scheme to be funded from a top-slice of the schools budget from April 2019 onwards	Yes 3 No 0	Yes 4 No 3	Yes 1 No 8
<p>Comments</p> <ul style="list-style-type: none"> • A significant number of replies from secondary schools stressed that the transfer of funding for 2018/19 should be a one-off and not repeated in future. These secondary schools preferred cuts to the SEN protection scheme. • A minority of replies suggested the changes to the tariffs should be phased in for new pupils due to existing staff contracts. • A minority of schools supported the proposal to top-slice school budgets to fund the SEN protection scheme as it is seen as essential in encouraging schools to be fully inclusive • PRU services have a vital role in the local authority and although we agree this increase it is reluctantly. Some schools will need to use this service more than others and unfortunately the costs are now becoming prohibitive. • We have concerns over the consultation and believe that the outcome will not reflect how important it is, to schools like us that believe in inclusivity, to have a (SEN protection) scheme like this in place. We will be severely financially disadvantaged if the scheme is scrapped or changed dramatically • We would like assurance that when recommendations are being made by the Budget Working Group to the Schools Forum, there is a balanced view taken which will benefit the children with high needs and not any one individual school regardless of size. The high needs budget albeit stretched, should be linked to pupils with high needs. As a local authority we all have a moral obligation to ensure that these children have the very best chance to succeed alongside their peers. Without additional funding this group of children will be severely disadvantaged. There is a strong likelihood children will be moved from school to school as their needs will not be met, as schools will not be able to afford the additional support they so clearly need. 			

Question	Special schools	Primary schools	Secondary schools
<ul style="list-style-type: none"> Re Proposal 5, Yes I agree and think this will need further thought in the future as it is possibly the most important proposal of the 5. Our school has a high proportion of SEN pupils requiring additional support and funding, and more often than not, this is not met with the SEN protection scheme. Raising further funds by top slicing is probably a fair system...however the distribution of the monies should be based on SEN numbers (or better, the severity of SEN) not pupil numbers, although I recognise the difficulty in doing this. 			

Appendices

Appendix 1 – schools consultation paper including expenditure graphs and response form

Appendix 2 – 2018/19 High needs budget recommended by Schools Forum

Appendix 3 – 2018/19 High needs budget graphs

Background papers

None identified