

Decision maker:	Cabinet member children and families
Decision date:	5 April 2019
Title of report:	High Needs Budget 2019/20
Report by:	Strategic Finance Manager schools

Classification

Open

Decision type

Key

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.

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.

Wards affected

(all Wards)

Purpose and summary

To review the Dedicated Schools Grant high needs budget for 2019/20 and recommend to the cabinet member children and families any necessary adjustments in the Pupil Referral Service charges to schools and SEN support services to schools.

The report sets out the expected financial position for Herefordshire high needs budgets and expenditure for the three years from 2019/20. Dedicated Schools Grant (DSG) for 2020/21 onwards will be determined by government following the Comprehensive Spending Review. This report recommends a number of actions to ensure that the high needs funding allocation is spent as effectively as possible whilst recognising the absolute duty to ensure that pupils' needs are met as required by Section 42 of the Children and Families Act 2014. The views of schools forum have been sought on the proposed budget plan prior to seeking cabinet member approval. The available high needs budget for 2019/20 will be set at £13.4m after deductions passported directly to academies and post-16 providers by the Education and Skills Funding Agency. This

allows for flexibility to meet additional unexpected costs and a prudent increase in DSG balances in the short term.

Recommendation(s)

That:

- (a) the Pupil Referral Unit be funded as set out below**
 - (i) 80 places for the period April 2019 to August 2019 comprising 50 places for permanently excluded pupils and 30 discretionary managed move/ intervention places**
 - (ii) 50 places for new and existing permanently excluded pupils for the period September 2019 to March 2020 and thereafter 50 places annually**
 - (iii) 15 places for discretionary managed move/intervention for existing pupils for the period September 2019 to August 2020**
 - (iv) 15 discretionary intervention places for new pupils to be charged at cost to the school purchasing the place until August 2020 and thereafter 30 discretionary places annually to be charged at cost to the school purchasing the place**
 - (v) savings on a phased basis of £30,000 in 2019/20, a further £100,000 in 2020/21 and a final £70,000 in 2021/22 be approved**
 - (vi) An intervention fund be approved on a phased basis of £50,000 from September 2019 in 2019/20, £125,000 in 2020/21 and £175,000 in 2021/22 for use by the In-year fair access panel, or similar, to support schools with meeting the needs of students following consultation with the Herefordshire Association of Secondary Headteachers (HASH)**
 - (vii) An increase of £1,000 in the PRU top-up fee to £6,700 for all students from September 2019**
- (b) budget efficiencies and increased charges to schools in the SEN support services to a total of £110,000 be approved from April 2019, a further budget efficiency of £40,000 from April 2020 and a final budget efficiency of £50,000 in April 2021;**
- (c) an income budget of £100,000 be set for the high needs contingency in expectation of an equivalent saving in Complex Need Funding for 2019/20; and**
- (d) the high needs budget including the amendments as above be approved as set out in Appendix 1**

Alternative options

1. No amendments to the high needs top-up tariffs are proposed. Proposals for significant changes in the operation of the Pupil Referral Service are currently being developed in conjunction with secondary schools. These changes will focus Dedicated Schools Grant high needs block spending on meeting the council's statutory responsibility for permanently excluded pupils and provide for school spending to be targeted to meet the costs of discretionary intervention places. Once finalised these new proposals will be phased in from September 2019. Some changes are proposed to the centrally provided SEN support services by re-modelling the services to either provide the support services more efficiently or inviting schools to purchase services directly.

Key considerations

2. Nationally many local authorities have incurred a deficit on their high needs block expenditure; Herefordshire is one of very few that has not although we are experiencing the same growth numbers of pupils with Education Health Care (EHC) plans.
3. Schools Forum agreed at the January meeting to support high needs expenditure, particularly the expenditure on the Special Educational Needs primary protection scheme and the increase in special school places, by transferring £215,000 from the schools block to high needs, this is equivalent to 0.2% of the schools block. This transfer was funded by Herefordshire's share of the national growth fund and it is important to note that mainstream schools in Herefordshire received national funding formula budgets plus an additional £15 per pupil. The transfer from the schools block ensures that the primary SEN protection scheme will continue in 2019/20 and further consideration will be given to finding the budget to permit the inclusion of secondary schools within the scheme as the cost is relatively modest at £63,000 compared to the £300,000 cost for primary schools.
4. The Secretary of State announced an additional £350m funding for high needs nationally, split between £125m in 2018/19, £125m in 2019/20 and £100m capital to create more specialist places in mainstream and special schools. Additional revenue funding of £0.38m will be received by Herefordshire in 2018/19 and 2019/20. No commitment has been made by government to baseline this additional funding for future years as education spending from 2020/21, including the high needs block, will be determined by the outcome of the government's comprehensive spending review.
5. Following an independent report, proposals for re-structuring the funding arrangements for the Pupil Referral Service are being developed with the Herefordshire Association of Headteachers for implementation from September 2019. Although the final details remain to be fully specified, the broad detail for funding the PRU have been established based around the council maintaining full responsibility for funding places for permanently excluded pupils and secondary schools becoming responsible for non-permanent intervention funding.
6. It is proposed that DSG will fund 50 permanent places annually at £10,000 per place and an enhanced top-up fee of £6,700 from September 2019 i.e. £1,000 more than the current top-up fee of £5,700. The additional £1,000 will help the PRU improve the education offer to students by improving quality and performance. The changes will be phased in from September 2019 for all new entrants to the PRU. It is envisaged that full year savings of £200,000 will be achieved by September 2020 and that an intervention support fund of £175,000 will be available to the In-year fair access panel, or similar such group, to help support school interventions. Savings in 2019/20 and 2020/21 are expected to be pro-rata with any additional part-year costs met from DSG balances.
7. The new budget for the PRU will be phased in to take account of the implementation from September 2019 and September 2020 as set out in the table below

	April – August 2019/20	Sept- March 2019/20	Total (Average) 2019/20*	April – August 2020/21	Sept- March 2020/21	Total (Average) 2020/21*
Funded Places - P/Ex	50	50	50	50	50	50
Discretionary	30	15	21.25	15	0	6.25

P/ex funded top-ups at £5,700	46.9		19.54			
Discretionary funded top-ups at £5,700	28.1		11.71			
P/Ex top-ups at £6,700		46.9	27.36	46.9	46.9	46.9
Discretionary top-ups at £6,700		14.1	8.23	14.1	0	5.88

*averages are 5/12 April–August plus 7/12 Sept–March

	£'000	£'000	£'000	£'000	£'000	£'000
Place funding – P/Ex	208.3	291.7	500	208.3	291.7	500
Place funding - Disc	125	87.5	212.5	87.5	0	87.5
Top-up funding P/Ex at 75/80 th occupancy	111.4	183.3	294.7	130.9	183.3	314.2
Top-up funding Disc at 75/80 th occupancy	66.8	55.1	121.9	39.4	0	39.4
Total Funding proposed			1,129.1			941.1
Current funding 80 places +75 top-ups at £5,700			1,227.5			1227.5
Reduction in guaranteed funding			98.4			286.4
Flexibility fund			50			125
Shortfall from charges			48.4			161.4

8. Efficiencies of £110,000 for 2019/20 have been identified in the SEN Support services budget as follows;
- Identifying other funding streams to continue existing service provision
 - Reducing some services whilst ensuring that the service level is at least the statutory minimum
 - some existing vacancy savings

9. The Complex Need Funding (CNF) agreement between the council and the Clinical Commissioning Group has underspent in recent years, and although the funding agreement cannot be easily amended, it is envisaged that the CNF will again underspend in 2019/20. As such the council must allocate the full funding for the agreement but it is suggested that a modest underspend of £100,000 is pre-empted in the high needs contingency
10. Additional growth is required to provide for increased costs as follows

• identified post-16 growth in high needs top-ups	£150,000
• forecast increased spend on independent special schools particularly as Herefordshire special schools are full	£200,000
• growth in special school places	£50,000
11. At the initial PRU joint planning seminar with secondary headteachers it was identified that early intervention is fundamental in reducing demand for high needs services and the difficulty is in funding the existing level of services for current pupils whilst identifying additional funding to address early intervention initiatives. Proposals will be brought forward to use a modest amount of DSG balances to spend on early intervention work by potentially extending the current early years speech and language (solid roots) initiative
12. All of these additional costs and savings are included in the forecast high needs expenditure model set out in paragraph 19.
13. The Schools Forum considered the proposals at their meeting on 15 March 2019 and agreed to recommend the proposals to the cabinet member for approval. The Budget Working Group supported the proposals subject to more detail on the planned savings in the SEN support services. The detail of the proposed efficiencies in the central services can now be released and is set out below:
 - a. Funding for the Looked After Children (LAC) teacher to be from the LAC pupil premium grant (£25,000)
 - b. DSG grant supporting the work of the Behaviour Support team, to be phased out over two years (£18,000)
 - c. Redefining and reducing the roles of the social exclusions officer (£20,000)
 - d. Reducing the cost of business support administration from the council to better reflect the reduced number of DSG funded staff (£10,000)
 - e. Reduce the complex casework support to school delivered by the Principal Education Psychologist to 40%/60% from the planned 50%/50% ratio (£7,500)
 - f. Vacancy savings in the Hearing Impaired and Visually Impaired teams and not re-recruiting a discrete specialist for physical difficulties (£30,000)

Community impact

14. The recommendations will change the service to be better for pupils in the future as it is intended that the service will be better able to meet the needs of schools and vulnerable pupils. The proposals for the Pupil Referral Service are focused upon the council fully funding its responsibilities for permanently excluded pupils and for schools to fund their responsibilities for pupil support and intervention prior to exclusion. In addition, the council is prepared to support schools in this intervention role by using DSG to improve the choices and options faced by pupils and their parents.

15. SEN support services will be refocused to ensure that support services to schools are provided within the funding available and that schools, if they wish for a higher level of support will be able to use their delegated funding to purchase additional services to support pupils.

Equality duty

16. 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.
17. 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 characteristic" (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, for example the recommendations will not necessarily increase or reduce the number of places but may change the nature of the places purchased by schools to more precisely meet pupil needs.

Resource implications

18. The forecast for the high needs expenditure is set out in the table below;

Funding	2018/19 £'000	2019/20 £'000	2020/21 £'000	2021/22 £'000
DSG High Needs Block	14,576	15,223	14,843	14,843
Schools Block transfer	324	215	0	0
Central services Block transfer	0	56	0	0
Assumed continued DfE extra funding			380	380
Less EFA deductions at source	(2,195)	(2,087)	(2,087)	(2,087)
Available HNB	12,705	13,407	13,136	13,136

Funding	2018/19 £'000	2019/20 £'000	2020/21 £'000	2021/22 £'000
Forecast Spend	12,375			
Add back one-off underspends from 2018/19 Early Years	300			
CNF – rebate on old pupil	95			
CNF –underspend 18/19	253			
Underlying level of spend	13,023	13,023	13,283	13,568
Add growth	2018/19 £'000	2019/20 £'000	2020/21 £'000	2021/22 £'000
Post-16		150	175	200
Independent Specials		200	200	200
Special school places		50	50	50
Less Savings				
PRU		(30)	(100)	(70)
SEN support Services		(110)	(40)	(50)
Forecast Spend	13,023	13,283	13,568	13,898
(Under)/Over	(330)	(124)	432	762
DSG uncommitted reserves B/Fwd	1,195	1,900	2,024	1,592
add under/overspend	330	124	(432)	(762)
add extra DfE income	375			
DSG C/Fwd	1,900	2,024	1,592	830

19. The financial forecast shows that without a continued annual transfer from the schools block from financial year 2020/21 the high needs block will overspend and the DSG reserves are reduced accordingly. On current projections DSG reserves are forecast to remain in surplus until 2021/22 although thereafter much will depend on future numbers of pupils requiring additional high needs funding and places.
20. Dedicated Schools Grant fully funds the high needs block.

Legal implications

21. 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. Schools Forum is consulted in an advisory capacity.
22. The council must consult the schools forum annually regarding a number of schools budget functions including the following:-

- Amendments to the school funding formula
- Arrangement for the education of pupils with SEN, in particular the places to be commissioned by the council and schools and the arrangements for paying top-up funding
- Arrangements for the use of PRUs and places to be commissioned by the council and schools and arrangements for paying top up funding
- Administrative arrangements for the allocation of central government grants paid to schools via the council.

It is also good practice for the council to inform the schools forum of proposals for central spend on High Needs block provision.

23. 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.
24. 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.
25. Changes to the high needs funding provision could leave the council open to legal challenge, through ombudsman complaint or appeal to the Special Education Needs and Disability Tribunal if children, young people or their families feel that the required specialist provision is not being met. Section 42 Children and Families Act 2014 provides that where a council maintains an EHC plan for a child or young person, the council must secure the specified educational provision. Therefore the council must comply with this statutory duty.

Risk management

26. The BWG reviews proposals in detail prior to making recommendations to the Schools Forum. This two stage process helps ensure greater scrutiny of budget proposals and mitigate against any risks that may be identified. Any identified risks will be monitored and managed by the Children and Families directorate jointly with Schools Forum. Specifically a financial risk assessment will be prepared for discussion with the BWG.

Consultees

27. All schools have been consulted on the proposals as part of the autumn schools budget consultation and the responses were reported to Schools Forum in January 2019. For convenience, the following table sets out the responses to the high needs questions. There will be further discussions with HASH about the criteria for the use of the intervention fund for placing secondary aged pupils with the Pupil Referral Service. The Budget Working Group were consulted on 1 March 2019 and their comments are included in paragraph 14 above. Schools Forum was consulted at their meeting on 15th March and agreed to recommend the proposals without change to the cabinet member for approval.

Question Number	Question Topic	Yes	No
D(i)	High needs – reduction in complex needs budget by £50,000	3	10
D(ii)	High needs – confirm reduction in primary schools protection as agreed by Schools Forum in March 2018	4	8
D(iii)	High needs – reduction in statutory PRU places by £220,000	5	7
D(iv)	High needs – reduction in SEN support services by £200,000	7	6

Appendices

Appendix 1: High Needs budget for 2019/20.

Background papers

None identified