

Meeting:	Schools Forum
Meeting date:	Friday, 13 March 2020
Title of report:	High Needs Budget 2020/21
Report by:	Strategic Finance Manager

Classification

Open

Decision type

This is not an executive decision

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

To review the Dedicated Schools Grant (DSG) high needs budget for 2020/21 and recommend to the cabinet member children and families for approval.

Recommendation(s)

That: having regard to the views of the Budget Working Group, the high needs budget for 2020/21 be approved for recommendation to the cabinet member for children and families as follows;

- (a) Complex needs funding £2,285,745;**
- (b) Independent special schools £1,100,000;**
- (c) Special school top-up funding £3,484,650;**
- (d) Special school commissioned places £1,593,000;**

- (e) High needs contingency £105,963;**
- (f) Mainstream school top-up funding £2,087,525;**
- (g) Nurture provision, from September 2020 £116,667;**
- (h) Pupil Referral Service to retain income from charges £90,000;**
- (i) SEN protection scheme for primary and secondary schools £385,000;**
- (j) H3 Home, Hospital and Hub £382,500;**
- (k) Autism and Language units top-up funding £286,925;**
- (l) Pupil Referral Unit support fund £75,000;**
- (m) Early years top-up funding £175,000;**
- (n) Autism and Language Units commissioned places £282,000;**
- (o) Pupil Referral Service top-up funding £376,875**
- (p) Pupil Referral Service commissioned places at 65 summer term and 50 autumn and spring £562,000;**
- (q) SEN support services**
 - (i) Additional Needs SEN advisor £203,750;**
 - (ii) Complex Learning Communications £122,550;**
 - (iii) Equalities team –inclusion £232,450;**
 - (iv) Behaviour Outreach – final year £9,000;**
 - (v) Physical & Sensory team £407,500;**
 - (vi) Managed moves £5,000;**
 - (vii) Business support £73,000;**
 - (viii) DSG Services £125,900;**
- (r) Charges and income**
 - (i) Excluded pupils (AWPU)/ Hospital -£315,000;**
 - (ii) Local authority recoupment -£200,000;**
 - (iii) Transfer from schools block -£300,000;**
 - (iv) Transfer from Central services block -£60,500.**

Alternative options

1. Schools Forum could recommend amendments to the proposed high needs budget. Any amendments would need to have regard to available funding, relevant regulations and the local authority's statutory duties in supporting children and young people with high needs. It should be noted that the Budget Working Group has considered and supported the proposals set out in this report. Schools Forum and headteachers will be able to monitor the high needs budget and propose alternative options for the future as necessary as the Budget Working Group meets and reports to the Schools Forum throughout the year.

2. Improvements in service provision are proposed by the introduction of nurture provision in September 2020. Discussions with headteachers are in hand to design the nurture provision and a number of options will be considered as discussions progress. No reductions in service provision are proposed.

Key considerations

3. The report sets out the forecast overspend of £1.2m on high needs in 2019/20 and the resulting reduction in DSG reserves from £1.7m to £0.5m. The Department for Education (DfE) has allocated £15.193m which is a £2.177m increase in the high needs block compared with the final 2019/20 high needs allocation, which was reduced in year to take account of place adjustments for Herefordshire & Ludlow FE College. The high needs budget for 2020/21 ensures that grant income and expenditure are matched. Maintaining a surplus in the high needs budget will depend very much on containing expenditure at or near budget for the complex needs funding and out county independent special schools expenditure streams. The Budget Working Group will monitor the financial position closely throughout the year.
4. This report proposes a high needs budget for 2020/21 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 are sought on the proposed budget plan prior to seeking cabinet member approval. The high needs budget for 2020/21 will be set at £15.193m after the transfer of £0.3m from the schools block and deductions passported directly to academies and post-16 providers by the Education and Skills Funding Agency. This allows for limited flexibility to meet additional unexpected costs without Dedicated Schools Grant slipping into deficit.
5. The Budget Working Group (BWG) received a presentation on the 28th February 2020 summarising the current budget position and the proposed high needs budget for 2020/21. Key points highlighted included:
 - An expected overspend for 2019/20 of approximately £1.2m, mainly due to overspends of £0.8m on the complex needs budget and £0.35m on out county independent special school places;
 - A consequent reduction in uncommitted balances from £1.7m to £0.5m which would leave very little in reserve;
 - Budget proposals were as consulted on in the Autumn, updated for decisions taken by the schools forum in relation to funding transfers from the schools block;
 - The proposed budget was balanced, but vulnerable to unexpected additional costs.
6. In discussion of the presentation and proposed budget, the BWG noted that:
 - The current system of central adjustments for FE places seemed to result in a net deduction for Herefordshire, explanation from the DfE was unclear but the import/export adjustments had only applied to Herefordshire since the creation of the Herefordshire and Ludlow FE College i.e. two years and it was possible that longer term it would balance out;
 - There was no published data on hospital pupils but anecdotal evidence was that Herefordshire was not unique in seeing an increase in numbers, work was taking place with CAMHS to deliver assessments of when pupils were fit to go back to school;

- It would be positive for schools to receive these pupils back as they remained responsible for their outcomes and there was concern that lack of resource might limit the education provided to this cohort, use of current and emerging technology to improve the education available was discussed;
 - There was a move to make the PRU responsible for invoicing for their own income, the admission paperwork for each pupil would set out the charges and an invoice would be raised for the full year, if the pupil did not stay for a full year then a credit note would be issued;
 - There had only been two primary pupils permanently excluded over the previous decade and this was typical of most councils;
 - More exclusions took place from secondary schools and levels varied between councils depending on the approaches used, some areas used managed moves in a 'no exclusions' approach but it was not clear if the overall outcomes for pupils were improved;
 - The complex needs funding currently supported just 18 young people but the costs involved were significant due to the type of provision required, work was underway to identify if more could be done to meet their needs within the county as even a small reduction in numbers would be significant;
 - Often the need for out of county residential care arose because of home breakdown rather than not being able to meet need in Herefordshire special schools, like many councils Herefordshire did not run its own specialist residential care but bought places from private providers, however there was a national conversation ongoing about incentivising councils to start creating their own provision;
 - Herefordshire now had a reasonable and growing respite care offer and the number of families getting this support had increased, however there was some difficulty in sourcing suitable overnight provision in the local area.
7. The work streams for the BWG for 2020/21 were set out as follows;
- Contain costs for complex needs funding and out county independent special school;
 - Implement nurture provision and review success and future impact;
 - Prepare plan to implement new high needs tariff for mainstream and special schools;
 - Review H3 hospital funding and funding mechanism;
 - DfE SEND review is expected to fundamentally change long term high needs arrangements when the review is available.
8. The outcome of the DfE review of SEND had been due for publication at Christmas but was now expected around Easter. It was expected that this would include details about how high needs deficits were to be treated. Where deficits had been incurred the local authority would not be responsible for funding these from general funds and it was possible that they might never be repaid. The group noted that it would be frustrating if deficits at other councils were effectively written off given the efforts made in Herefordshire to manage the high needs budget.
9. The BWG considered the proposed high needs budget and were content for the budget proposals to be considered at the next meeting of the schools forum on 13 March.

Community impact

10. The recommendations will provide a high needs budget for 2020/21 that continues to meet the needs of pupils within the DSG funding allocated to the council. The proposals for nurture provision will improve the service for those schools and vulnerable pupils that participate in the initial scheme. Subject to review and impact, it is intended that nurture provision will be expanded in future years as funding permits in order to improve the services offered to vulnerable pupils.
11. These services contribute to delivery of the following ambitions in the adopted County Plan for 2020-2024:

Community

- Ensure all children are healthy, safe and inspired to achieve;
 - Protect and improve the lives of vulnerable people.
12. These services also support the pledges set out in the Children and Young Peoples Plan 2019-2024 in:
 - Keeping children and young people safe;
 - Improving children and young people's health and wellbeing;
 - Helping ALL children and young people succeed.

Equality duty

13. 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.
14. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relations 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, for example the provision of nurture provision to meet pupil needs.

Resource implications

15. The recommended high needs budget for 2020/21 has been constructed so that income and expenditure are balanced. The forecast overspend of £1.2m in 2019/20 will reduce DSG balances from an uncommitted £1.7m to £0.5m which allows for limited flexibility to meet additional unexpected costs without Dedicated Schools Grant slipping into a deficit.
16. High needs budgets for future years will depend on the DSG funding allocated by the DfE.

Legal implications

17. 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.
18. The council must consult the schools forum annually regarding a number of schools budget functions including the following:-
 - Amendments to the school funding formula
 - Arrangements for the education of pupils with SEN, in particular the places to be commissioned by the council and schools and the arrangements for top-up funding
 - Arrangements for the use of PRUs and places to be commissioned by the council and schools and arrangements for paying the 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 schools forum of proposals for central spend on the high needs block provision.

19. 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.
20. 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 the provision for pupils with high needs in both special and maintained schools
21. 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 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 education provision. Therefore the council must comply with this statutory duty.

Risk management

22. The BWG reviews all 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 Childrens and Families directorate jointly with Schools Forum. Specifically financial risk will be managed throughout the year with the BWG.

23. The government has changed the conditions of grant for the Dedicated Schools Grant so that the council would be required to seek permission from the Secretary of State should it wish to fund a DSG deficit from the council's general funds. Effectively this change in regulations transfers responsibility for DSG deficits to the Department for Education (DfE) and absolves the council of any contribution. Further information on the new deficit recovery process is expected from the DfE in due course, possibly included as part of the forthcoming SEND review report. Although local authorities will continue to have to seek approval for DSG recovery plans from the DfE, it is not at all clear how a deficit might be recovered if it is not from increased high needs block grant from DfE.
24. The investment in nurture provision is a longer term preventative measure which attempts to mitigate demand for higher cost provision and keep the high needs costs within the available budget. The use of such preventative measures was supported by the BWG and also by schools as set out in Q2(g) in the responses below.

Consultees

25. 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 2020. For convenience, the following table sets out the responses to the high needs questions. The Budget Working Group were consulted on 28th February 2020 and their comments are included in paragraphs 6-9 above.

Q2	Use of additional high needs funding of £2m as follows;	Yes	No
Q2(a)	Cover existing overspends in high needs at £1m	18	0
Q2(b)	Growth in complex needs places of £0.5m	18	0
Q2(c)	Growth in post-16 places of £0.05m	16	11
Q2(d)	Increase in tariffs A-C (+2%) and D-F(+5%)	16	2
Q2(e)	Additional costs from tariff review at £0.2m	15	3 - more info
Q2(f)	Extend the SEN protection scheme to secondary schools at £0.1m	15	2
Q2(g)	Preventative initiatives to reduce future spend at £0.1m	13	3 – more info
Q2(h)	Less a contribution from the growth fund schools block of £0.2m to balance the high needs budget	15	3 – some misunderstandings

Appendices

High Needs presentation and budget proposals 2020/21.

Background papers

None identified.

Please include a glossary of terms, abbreviations and acronyms used in this report.

BWG Budget Working Group (of Schools Forum)

CAMHS Children and Adolescent Mental Health Service

DSG Dedicated Schools Grant

DfE Department for Education

EHCP Education Health Care Plan

ESFA Education and Skills Funding Agency

PRU Pupil Referral Unit

H3 Home and Hospital Teaching Team (Hub, Home, Hospital)

SEN Special Education Needs

SEND Special Education Needs and Disability