

Meeting:	Herefordshire schools forum
Meeting date:	Friday 15 January 2021
Title of report:	High needs revised matrix and tariffs - Implementation plan
Report by:	Director of Children and Families

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To update Schools Forum on the implementation plan for the revised High Needs Matrix and to seek comments prior to consultation with schools and parent carer groups

Recommendation(s)

That:

- (a) Schools forum endorses the implementation plan for consultation with schools and parent carer groups (subject to any comments made); and**
- (b) The Budget Working Group be asked to consider the responses to the consultation and any necessary financial adjustments; and**
- (c) A finalised implementation plan and tariff values be considered by Schools Forum at the meeting in March.**

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Alternative options

1. Schools Forum could choose not to support the consultation. In this case the local authority would then have to determine whether to proceed with the consultation or to amend the implementation plan and re-present to the forum. Other options for the implementation plan were considered, for example to move all children to the new tariff model at annual review rather than at phase transfer and rejected due to staffing implications. Further realistic alternatives may suggested during the consultation.
2. A more fundamental alternative would be to do nothing and soldier on with the existing system. However that would result in the current defects in the system still being present and continuing to be used.
3. Another option would be to implement a different system for distributing resource. However, having investigated those systems used by other councils, they would not adhere to the principles we originally and continue to set out.

Key considerations

Background

4. The High Needs Matrix (HNM) is the method by which funding is calculated to support children and young people with Education, Health and Care Plans (EHCPs) in Herefordshire. It is also used to determine funding for some without EHCPs who have comparable level of need, but have not been assessed for an EHCP. Typically, the latter group is where the funding award is likely to be time-limited and in the first instance, an EHCP might not be necessary. It was intended the HNM would be reviewed following its introduction in 2014. Collaborative work has been undertaken with a broad range of colleagues, parents and schools to review the HNM so that it accurately reflects the needs of the vast majority of children and young people with SEND in Herefordshire.
5. Areas for improvement were identified by the working group, which included:
 - Double counting of behaviours associated within both the autism and social, emotional and mental health columns of the matrix
 - The possible representation of learning difficulties as both specific and general.
 - Insufficient recognition of medical and physical needs at the severe end of need resulting in too many children and young people with the most complex needs requiring to be exceptions from the matrix and hence individual decisions made about their level of funding.
 - The descriptions of need lacked sufficient detail and were too ambiguous to allow the user to be clear as to how the needs of a child should be scored.
 - The need for more consistent increments between tariff boundaries.
6. The revised HNM addresses the issues raised previously and has been tested both by the Special Educational Needs (SEN) Team and a number of schools (including special schools), to test its usability, robustness and to ensure that it is representative of each child's needs and therefore the resource required to meet those needs. Moderation of the

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revised HNM alongside the initial version was undertaken to ensure it was appropriate in gauging the level of need of children and young people.

7. Financial testing indicates that the total expenditure using the revised HNM is broadly comparable to the existing arrangements; it is expected to be largely cost neutral.

Current Funding Levels and Tariff Boundaries

8. The current funding levels and tariff boundaries applicable for financial year 2020/21 are set out in Appendix 1.
9. When the finer graded tariff levels (A1 – F4) were introduced by the Local Authority in 2017, these were applied in all schools. However, due to the constraints required by the Minimum Funding Guarantee (MFG), each pupil in special schools has continued to be paid the top of the tariff band pending the revision of the HNM.
10. The original HNM was designed so that the same need would be funded at the same level, irrespective of school type (e.g., mainstream or specialist). The design of the new matrix is intended to maintain this principle.
11. The Local Authority is required to apply the MFG to special schools, however as new pupils arrive at the school, the guarantee provided reduces because pupils are placed on their actual band rather than necessarily being at the top of the band (see appendix 1). The financial modelling has included the inflation allowance which has reduced the disparities in special school funding however further work needs to be carried out to minimise changes in funding and to identify the cost of the provision described in Education, Health and Care Plans in order to ensure that adequate budget provision is made. This is in line with the Council's duty to meet a child's SEN.
12. Moderation and testing confirms that the existing structure of tariff boundaries in place remain appropriate; although the values attached to these may change marginally following consultation and final budget planning.
13. The following fundamental principles will continue to be applied to the new matrix
 - a. All pupils should be funded at the same level irrespective of the setting they attend (e.g., mainstream or specialist).
 - b. We seek to minimise the impact of funding changes for individual settings; transitional arrangements will be applied.
 - c. Funding levels should be split as evenly as is possible across the tariffs to avoid substantial jumps between levels where there is only a small change in need..
 - d. Tariff levels should be sustainable within the High Needs Grant provided by Central Government.
14. The following table sets out the financial modelling based on a sample of pupils with tariffs D- F. Work is in hand to increase the sample from Brookfield school to provide a more representative sample and the tariffs will be reviewed and recalculated if necessary. The Minimum Funding Guarantee (MFG) will ensure that any shortfall in funding for a special school will be made good and provision for additional funding has

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been included in the proposed high needs budget. It may be possible to provide additional budget to further reduce any budget shortfall. This will be progressed further after the consultation with the Budget Working Group (BWG) in March as part of the consideration of the overall high needs budget.

School	Number in sample	Existing funding £'000	Proposed funding £'000	Difference £'000
Barrs Court	81	1,029	1,022	-7
Blackmarston	40	486	472	-14
Brookfield	19	183	172	-11
Westfield	30	366	386	+20
Mainstream	60	489	565	+77

Proposals

15. From 1 April 2021 the new proposals will ensure that;

- All new Education Health Care (EHC) Plans will have funding allocated using the updated tariff levels, including those for children and young people attending specialist settings.
- All children and young people reaching 'phase transfer' points of Reception, Year 5 and Year 11 will be moved to the revised HNM with the appropriate tariff levels applied.
- All EHC Plans will be moved to the new funding matrix within five years.
- All non EHC Plan Top Up Funding applications will be allocated funding using revised HNM.

16. The next steps following schools forum are as follows;

- a. Further work to be carried out to determine the impact upon special schools.
- b. Final proposals and timescales to be delivered to BWG on 8 January 2021.
- c. Consultations to be undertaken, including with parents and carers.
- d. Confirmed proposals Budget Working Group on 5 March 2021 and Schools Forum 19 March 2021.
- e. Approval by Cabinet Member Children and Families.

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Illustrative Calculations for Funding from April 2021

17. Appendix 1 sets out illustrative funding values for each tariff which will be part of the consultation with schools and parental groups and subject to any necessary minor adjustments following consultations will be effective from 1 April 2021.

Community impact

18. The revised HNM will support the high needs budget to meet the needs of pupils with SEND within the DSG funding allocated to the council. The proposals will ensure the HNM is appropriate in gauging the level of need of children and young people and that pupils are funded at the same level irrespective of the setting they attend
19. These services contribute to delivery of the following ambitions in the adopted County Plan for 2020-2024:

Community
 - a. Ensure all children are healthy, safe and inspired to achieve;
 - b. Protect and improve the lives of vulnerable people.
20. These services also support the pledges set out in the Children and Young Peoples Plan 2019-2024 in:
 - a. Keeping children and young people safe;
 - b. Improving children and young people's health and wellbeing;
 - c. Helping ALL children and young people succeed.
21. The funding provided through the HNM for SEND will be made to care experienced children and care leavers in the same way as to all other children eligible for funding through the HNM, irrespective of other funding provided to support the education of care experienced children.
22. The term 'corporate parent' means the collective responsibility of the council, elected members, employees, and partner agencies, for providing the best possible care and safeguarding for children who are looked after by the council. Being a good corporate parent means we should: accept responsibility for children in the council's care; make their needs a priority; and seek for them the same outcomes any good parent would want for their own children.
23. Corporate parenting responsibilities are not confined to elected members. All officers share the responsibility to promote the needs of looked after children. Key responsibilities of all officers are: to promote the life chances of looked after children and care leavers in their area of responsibility; and to consider the impact of decision making on looked after children and care leavers.

Environmental Impact

24. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability,

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achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.

25. Whilst this is a decision primarily on funding and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the Council's Environmental Policy.

Equality duty

26. 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.
27. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. It remains a fundamental principle of the revised HNM that children and young people with special educational needs attract the same level of funding irrespective of the setting they attend. This principle should support parents (or YP themselves who are over 16 years of age) to express a preference for either mainstream or specialist settings (subject to their child meeting the entry criteria for the provision).
28. 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. The intention of the HNM is to reduce educational disadvantage and promote educational progress for children and young people with the protected characteristic of disability when compared to non-disabled peers. The HNM covers the full range of SEND as defined by the SEND Code of Practice, 2015.
29. Where a decision is likely to result in detrimental impact on any group with a protected characteristic it must be justified objectively. This means that attempts to mitigate the harm need to be explored. If the harm cannot be avoided, the decision maker must balance this detrimental impact against the strength of legitimate public need to pursue the service change. The removal of the autism column from the original matrix has been considered in relation to any detrimental impact. However, the principle of the funding is to make provision to mitigate the impact of the special educational need. This SEN is best considered in terms of identifiable behaviours rather than particular diagnoses. The behaviours associated with the autism spectrum that impact on educational progress (in its widest sense) have been considered and the working group, which included the Chair of the local branch of the National Autistic Society, agreed that the other columns of the

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HNM (mainly the SEMH and speech, language and communication columns) covered all of those associated behaviours.

Resource implications

30. Dedicated Schools Grant provides the funding for the high needs tariffs from within the high needs block. The final high needs budget for 2021/22 will be considered in detail by the Budget Working Group on 4 March 2021 and final budget proposals will be considered by Schools Forum on 19 March 2021. Final approval of school forum's recommended high needs budget will be by the Cabinet Member immediately afterwards.
31. The final tariff proposals for 2021/22 will be considered by the Budget Working Group following consultation and will be within the existing allocated high needs budget for 2020/21 plus any additional inflationary increase and implementation costs, for example to meet the minimum funding Guarantee as recommended to the cabinet member later in March.
32. There are no resource implications in carrying out the consultation as it will be dealt with as an operational matter within existing budgets.

Legal implications

33. 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. 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.
34. It is also good practice for the council to inform schools forum of proposals for central spend on the high needs block provision.
35. 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 under the Children and Families Act 2014.
36. 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
37. Changes to the high needs funding provision could leave the council open to legal challenge through judicial review, ombudsman complaint or appeal to the Special Education Needs and disability Tribunal if children, young people or their families are of the view 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,

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the council must secure the specified education provision. Therefore the council must comply with its statutory duties in this regard.

Risk management

38. As these proposals are to be consulted upon no analysis of risk has yet been carried out.
39. The BWG will review the proposals in detail and consider feedback received prior to making recommendations to the Schools Forum. This two stage process helps ensure greater scrutiny of 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.

Consultees

40. Consultation will be undertaken with the following groups and organisations following consideration of the proposals by Schools Forum;
 - a. All Herefordshire schools and colleges
 - b. All parent and carer groups representing children with SEND

Appendices

Appendix 1 - current funding levels and tariff boundaries applicable for financial year 2020/21

Appendix 2 - Revised High Needs Matrix applicable from 1 April 2021

Background papers

Statistical and Financial modelling analysis to determine “best fit” revised tariff funding

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

BWG Budget Working Group (of Schools Forum)

DSG Dedicated Schools Grant

DfE Department for Education

EHCP Education Health Care Plan

ESFA Education and Skills Funding Agency

HNM High Needs Matrix

PRU Pupil Referral Unit

SEN Special Education Needs

SEND Special Education Needs and Disability

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