



Department  
for Education

# **High needs national funding formula and other reforms**

**Government response and new  
proposals for consultation – stage two**

**Launch date 14 December 2016**

**Respond by 22 March 2017**

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## Foreword

Every child and young person deserves a world class education that allows them to reach their full potential and prepares them to succeed in adult life. That is as true for the most vulnerable who are supported by high needs funding as it is for every other child. Building on the foundations being laid by the combined efforts of local authorities, schools and others in implementing the Children and Families Act 2014, this government is determined to improve opportunities for these young people.



Earlier in 2016 we took a significant step forward by consulting on the framework for a new approach to distributing the funding for schools and high needs. We received over 6,000 responses to that consultation, including over 1,000 on our high needs funding reform proposals. We are most grateful to all who took the time to contribute their views, and have taken time to consider carefully the way forward.

The first consultation responses confirmed that we are right to introduce a new national funding formula for high needs, and provided a broad endorsement of the factors to include in that formula. We believe that the formula we are setting out in this document will create a better distribution of funding, much more closely matched to need. The many areas across the country that have been under-funded for too long will begin to see increases that will help them achieve more for their children and young people.

The majority of high needs funding will continue to be allocated to local authorities, reflecting their continuing responsibilities for vulnerable children and young people. This consultation includes information about the funding levels local authorities can expect in future years, and about the support we are offering to help them work collaboratively and strategically to plan ahead.

- The formula we propose would ensure that no local authority would face a reduction in high needs funding compared to their current spending. This reflects the priority this government attaches to supporting children and young people with high needs and the importance of ensuring that their current placements are protected. We propose not only to protect authorities against losses, but also to provide gains of up to 3% in each of the next two years for those authorities that are currently under-funded.
- Reflecting responses we received in the first stage of the consultation, we will allow for a degree of flexibility so that local areas can, through an agreement between local authorities and their maintained schools and academies, deploy some schools funding for high needs purposes. We are consulting on specific proposals for 2018-19, and indicating longer term arrangements from 2019-20, so that schools and local authorities can work together in meeting the needs of

children and young people with special educational needs, making best use of the combined resources at their disposal.

- This year we are allocating a separate additional grant to each local authority so that they can work with local schools, other providers, parents and young people, and with neighbouring authorities to review the way high needs funding is used and to consider how best to use mainstream and specialist provision across the area. Many local authorities have already started to plan in this way, and we intend to share good practice and guidance to help those just starting. This grant is over and above the extra funding we are making available this year and next year to help with local implementation of the Children and Families Act reforms.
- We will also be distributing at least £200 million of capital funding for places for pupils with special educational needs and disabilities. We want to give local authorities the flexibility to use this funding in a way that best meets needs in their local area, to build new places, and to improve existing ones in special and mainstream schools, and other institutions. This is in addition to funding for free schools: we have opened 23 new special schools so far<sup>1</sup>, and local authorities have also had the opportunity to indicate where a new special school would support their plans.

This document sets out the next steps on high needs funding reform. We recognise that that changes need to be carefully managed and that the pace of change should not create unhelpful turbulence. That is why we have emphasised the need for local review and planning, proposed a funding floor to prevent cash reductions, and committed to a review of the national formula within 4 years. Of course, funding reform on its own cannot be enough to deliver a better system of provision for our most vulnerable children and young people, but it is a vital part in that programme of change and improvement. We are confident that the proposals we set out in this document will give all those involved in supporting young people and children with high needs the best opportunity to help to make a positive impact to their lives. We look forward to receiving your views and responses.



**Edward Timpson MP**

**Minister of State for Vulnerable Children and Families**

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<sup>1</sup> Department for Education, '[Free schools: open schools and successful applications](#)', up to September 2016

## Introduction

This consultation follows an earlier consultation in 2016, and seeks views on further proposals on the way that high needs funding is distributed. High needs funding supports pupils and students with special educational needs (SEN) and disabilities, and those who are in alternative provision (AP).

## Who this is for

It is important that we have views from a range of organisations and individuals involved in providing services for children and young people with special needs, including:

- Local authorities (both finance departments and those leading service delivery)
- Early years providers
- Schools maintained by local authorities, including special schools and pupil referral units
- Academy schools, including special and AP academies
- Free schools, including special and AP free schools
- Multi-academy trusts
- Non-maintained and independent special schools
- Sixth form and general further education (FE) colleges
- Independent specialist colleges (also known as special post-16 institutions)
- Other FE providers
- Head teachers and principals of the above institutions
- Teachers and other professionals dealing with children and young people with special educational needs and disabilities, and with those in AP
- Parents of children and young people with special needs or in AP, and young people themselves
- Organisations representing the above or with a special interest in services for children and young people with special needs or in AP

## Issue date

The consultation was issued on 14 December 2016.

## Enquiries

If you have an enquiry about the policy content of the consultation, you can email the team at [HighNeedsFundingReform.CONULTATION@education.gov.uk](mailto:HighNeedsFundingReform.CONULTATION@education.gov.uk). If your question is about the data or calculations involved in illustrating the impact of our proposals for a particular school, please include 'NFF data query' in the subject line.

If you have an enquiry related to the Department for Education (DfE) e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by telephone on 0370 000 2288 or via the [DfE Contact us page](#).

## **Additional copies**

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

## **The response**

The results of the consultation and the department's response will be published on GOV.UK later in 2017.

## **About this consultation**

We are consulting in two stages. The first consultation, which launched in March 2016, covered high level principles, key proposals on distributing high needs funding to local authorities through a national funding formula, and other options for change. Chapter 2 of this consultation sets out the government response following that initial consultation. The second consultation covers:

- the proposed values and weightings for the factors and adjustments in the high needs national funding formula;
- the introduction of a funding floor, such that no local authority will face a reduction in high needs funding as a result of the formula, and
- how we propose to operate some limited local budget flexibility that enables local areas, through an agreement between local authorities and schools, to move some schools funding into high needs budgets.

Accompanying information shows the impact of the new funding formula distribution for local authorities, including illustrative allocations for the first year of the formula and the position for authorities when their allocations are fully determined by the formula without any transitional arrangements. A separate technical note explains in detail how we have done the calculations to produce the illustrative allocations.

We are seeking views alongside this on detailed proposals for a national funding formula for schools, and on our equalities impact assessment.

## **Respond online**

To help us analyse the responses it is important that you use the online system wherever possible. It is not possible to disaggregate combined responses, for example, treating a

single response from a schools forum as a separate response from each member of the forum. We will, however, take note of single responses from organisations that represent their membership.

## **Other ways to respond**

If, for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may request a word document version of the form and email it or post it.

### **By email**

To: [HighNeedsFundingReform.CONULTATION@education.gov.uk](mailto:HighNeedsFundingReform.CONULTATION@education.gov.uk)

### **Deadline**

The consultation closes on 22 March 2017.

# Chapter 1: What this consultation covers

## Background

1.1 The department's funding settlement to the end of the spending period (2019-20) provides the core funding for all schools, colleges and early years provision, and additional support for children and young people with high cost special educational needs (SEN) and disabilities. Schools and high needs funding has been protected since 2010, and we are continuing to protect it, in real terms, to 2020.

1.2 The dedicated schools grant (DSG) is the main source of government funding to local authorities for education provision. It is currently divided into three blocks: schools, high needs, and early years. In consultation with their schools forum, local authorities make decisions about how to split the DSG funding they receive between their budgets, and on the local formulae which determine the allocations for individual schools and early years providers. They are also responsible for deciding how many places for children and young people with high needs, in special schools and units, and in colleges, should be funded. Finally, they are responsible for allocating top-up funding for children and young people with high needs. These responsibilities are aligned with their statutory duties under the Children and Families Act 2014.

1.3 Because we have protected high needs funding over this spending period, the national high needs budget of more than £5 billion per annum is rising by over £90 million this year, and will continue to increase throughout this Parliament. However, while the total available has been protected, we recognise that the current system for distributing that funding is unfair and inadequate, providing significantly different levels of funding for high needs across the country, which simply cannot be justified by reference to any measure of need.

1.4 This failure to match funding to need creates a real barrier to ensuring that the education system is working for every child, and providing opportunities for all to succeed. It is therefore important that we make sure that the future distribution of funding is on a more rational and consistent basis, more closely aligned to the underlying needs in different areas.

1.5 As a result, and building on research by Isos Partnership ('Isos'), published in July 2015<sup>2</sup>, we consulted in March and April 2016 on the principles and basic framework of a formula that would make significant improvements to the distribution of high needs funding to local areas.

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<sup>2</sup> Department for Education, '[Funding for young people with special educational needs](#)', July 2015



## Allocations of high needs funding for 2017-18

1.6 In July 2016 we confirmed the government's intention to introduce a national funding formula for high needs. Although we are keen to make as much progress as possible, as fast as possible, we wanted to take time to listen carefully to responses to the first stage of our consultation, which stressed the importance of providing schools and local authorities with funding stability. We also recognised the importance of giving local authorities certainty and time to properly plan their budgets for the next financial year.

1.7 We therefore announced in July that we would use local authorities' planned spending levels in 2016-17 as the basis for high needs funding allocations for 2017-18, and move to a national funding formula from 2018-19<sup>3</sup>.

1.8 The protection in the DSG enabled us to issue each local authority a guaranteed high needs block allocation for 2017-18, making sure that no local authority will see a reduction in their high needs allocations<sup>4</sup>. Furthermore, we also confirmed that additional high needs funding would be allocated, and the amount of additional funding for each local authority will be confirmed in the 2017-18 DSG allocations published later in December.

## Consultation on the formula for 2018-19 and beyond

1.9 The rest of this consultation covers:

- the government's response to the first stage of our consultation on changes to high needs funding (chapter 2);
- detailed proposals on the weightings in the high needs funding formula that will determine funding allocations from 2018-19 (chapter 3);
- how we are proposing to support the implementation of the new funding arrangements in local areas, including support for local authorities, to make sure available resources have maximum effect, and how we will take forward the proposals we made in the first consultation for some changes to the way that funding is distributed to schools, colleges and other institutions (chapter 4).

1.10 Alongside this consultation, we are publishing illustrations of the impact of the proposed national funding formulae on local authority funding. They show the high needs allocations that local authorities would receive under the proposed formula, if all local

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<sup>3</sup> Department for Education, Education Funding Agency and the Rt Hon Justine Greening MP, '[Schools funding](#)', July 2016

<sup>4</sup> The baseline position for each local authority was calculated from the information on high needs planned spending in 2016-17 that authorities provided in April 2016.

authorities' circumstances are unchanged from 2016-17, taking account of the protections we propose to put in place. These illustrative allocations also reflect the operation of the funding floor, that would mean no authority would lose any high needs funding as a result of the move to the new formula, as well as showing how much local authorities are set to gain.

1.11 The technical descriptions of our underlying data sources and methodologies for each formula factor can be found in a technical note. We are also publishing a step-by-step calculation of the illustrative allocations. It is important to be clear that this provides an illustration of likely impact, rather than setting out the precise allocations that local authorities would actually receive in future. These illustrations make no assumption about changes to pupil numbers, or to any of the other data that will be used to calculate each local authority's allocation. As circumstances change, the formula will take account of the relevant data changes and re-calculate each authority's actual allocation accordingly. The step-by-step calculation and technical note also explain how the funding floor will operate in relation to such changes.

## Chapter 2: response to the first stage consultation

### Introduction

2.1 On 7 March, we launched the first stage of our consultation on a national funding formula for high needs, and other changes to high needs funding.

2.2 We asked 14 questions on the following areas:

- the structure of high needs funding;
- the basic design of a high needs national funding formula;
- the transition to a new distribution of high needs funding;
- changes to the way that funding for special educational needs (SEN) and disability is distributed to institutions.

2.3 This chapter briefly summarises our first stage consultation proposals, and outlines the responses we received on these proposals and our decisions on the basis of these responses. It focuses on the key themes arising from the consultation responses rather than a question by question analysis. There is a summary of responses to each question in annex A<sup>5</sup>.

### Number of responses received

2.4 In total there were 1075 responses to the consultation on high needs funding. School and college head teachers and principals made up the largest group of those who responded (28%), followed by local authority representatives (13%).

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<sup>5</sup> Annex A is a separate document published alongside this consultation document.

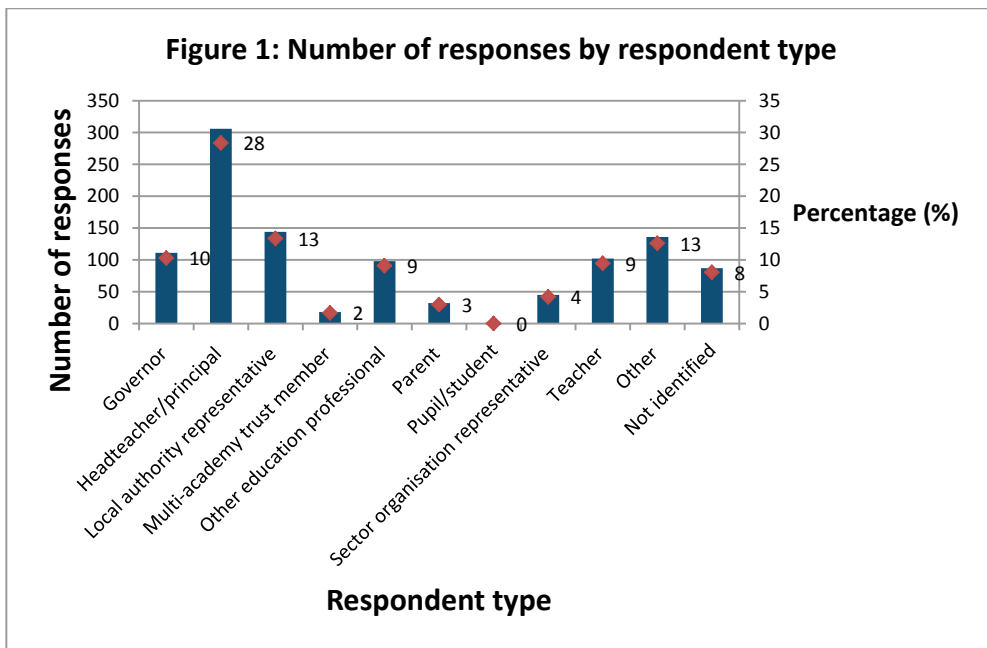


Figure 1: This chart shows the number of respondents to the first stage of the consultation, according to either their profession, or their relationship to the education sector.

2.5 By region, the largest proportion of responses was from London, making up 24% of the total number.

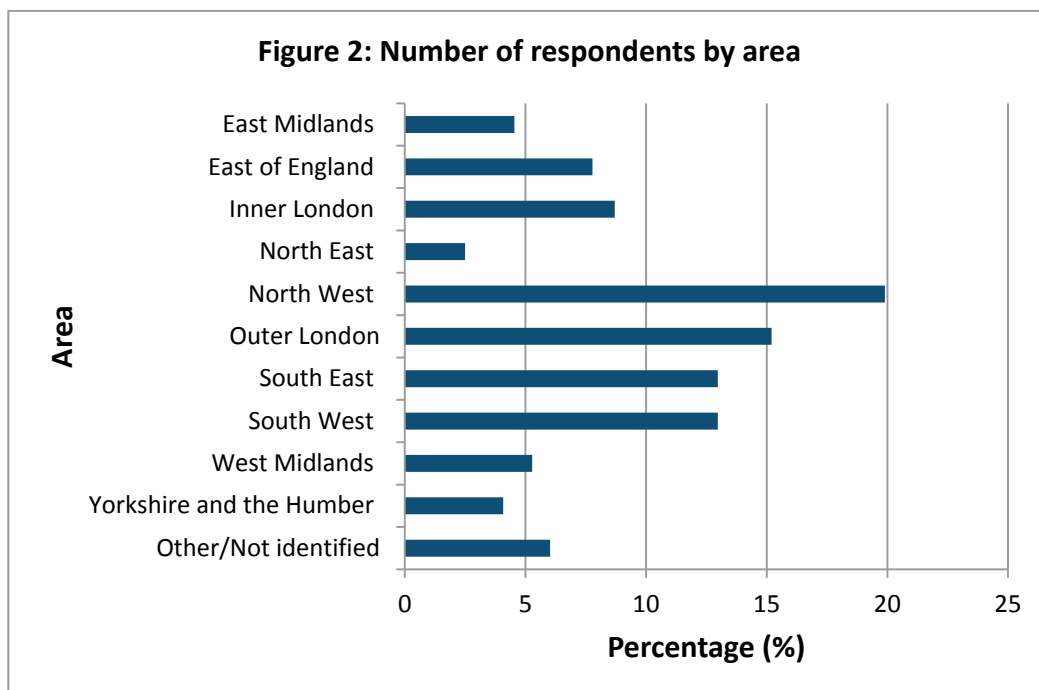


Figure 2: This chart shows the number of respondents to the first stage of the consultation by area.

2.6 A full list of the organisations that have responded can be found at annex A.

2.7 Some respondents chose only to answer a subset of the questions that were posed. Throughout this document the percentages are expressed as a proportion of all respondents so will not always add up to 100%. These percentages have not been weighted either to take account of responses from representative bodies, or where there were multiple identical responses (for example, from individual schools in the same area). We have, however, taken time to look carefully at responses from those individuals and organisations representing a significant number of others, and have where necessary followed up with meetings and further correspondence to make sure that we fully understand the views expressed.

## **Structure of the high needs funding system**

2.8 The government provides over £5 billion per annum to support children and young people with high needs. Currently we allocate the vast majority of this funding to local authorities on the basis of what they were spending in 2012-13, which in turn is derived from local authority decisions and spending patterns in 2005-06. This money is spent on special provision for children and young people with SEN and disabilities in schools and other institutions, and on alternative provision; and on specialist support and other services provided directly. We have updated the distribution for 2017-18 to reflect 2016-17 spending levels, but this remains directly linked to spending levels rather than to any estimate of levels of need.

2.9 Overall, there was strong support for our proposals for the structure of a new system of high needs funding distribution. In taking forward changes, we proposed 7 underpinning principles – that the funding system should:

- support opportunity
- be fair
- be efficient
- get funding to the front line
- be transparent
- be simple
- be predictable.

2.10 69% agreed with these principles. There was widespread agreement that funding should be distributed in a way that is fair, transparent and predictable. Responses rightly pointed out that there should be a balance between the principles: for example, a system that prioritised simplicity over fairness would not necessarily get funding to where it was needed. The government is committed to achieving real social justice and social mobility. Introducing fairer funding for high needs is important to support opportunity for all children and young people, irrespective of their background, ability, need or where in the country they live. Taking that into account, we believe that the new funding system should support opportunity for all, underpinning social mobility and social justice, and that

the principles outlined above will provide a sound basis on which to proceed with our funding reforms, including those relating to high needs.

2.11 We proposed that the majority of high needs funding should continue to be distributed from central government to local authorities rather than directly to schools and other institutions, as this would align with their statutory responsibilities for children and young people with SEN and disabilities. A large majority (79%) of respondents agreed with this proposal.

2.12 A minority of respondents argued that all high needs funding, including that currently directed through the Education Funding Agency (EFA), should go to local authorities. Conversely, some respondents argued for a more centralised system of direct funding for high needs, bypassing local authorities. These views were most commonly expressed by representatives of colleges and schools who were concerned about losing centres of specialist expertise (and the access to specialist teachers and professional development they provide), cited particular problems in reaching agreement with local authorities on the places they were commissioning or the funding for individual placements, or were dealing with many local authorities. Some argued that there was a potential conflict between assessment of need and decisions on funding.

2.13 We understand that practice varies across different local authorities, but do not consider that a centralised system would work better. Detaching local assessment decisions from the financial consequences of those decisions – particularly at this stage of implementing the Children and Families Act 2014 – would make it much harder to manage the costs from the overall high needs budget. We will therefore continue to distribute high needs funding as part of the dedicated schools grant (DSG) that is allocated to local authorities. They will continue to make statutory education, health and care (EHC) needs assessments and plans, taking account of the wishes of parents and young people, and making sure that the associated spending decisions represent an efficient use of resources.

2.14 We acknowledge, however, that meeting the costs of some children and young people with low-incidence needs, including those with the most complex needs whose support costs can exceed £100,000 per annum, can create difficulties for local authorities, particularly if existing specialist provision attracts families with such children and young people into the area. We also acknowledge the other issues raised. We will consider how best to undertake further research to inform future development of the high needs funding formula, and will investigate these issues as part of that research.

2.15 We proposed to distribute high needs funding to local authorities on the basis of a national funding formula based on proxy measures of need. Opinion was more divided on this. More agreed than disagreed (48% as opposed to 45%), and we have taken into account that most of those who disagreed were from schools or other institutions, who may have answered the question from the perspective of how institutions receive funding

for their pupils and students with high needs from the local authority, rather than how it is distributed to local areas from central government.

2.16 We acknowledge that proxy indicators of need would not reflect every type of SEN or disability, and that the distribution of funding to individual institutions needs to be based on individual need. That is why we are proposing to retain the system of top-up funding at the local level, based on the specific needs of individual pupils, so that resources are linked directly to the support that institutions will be providing.

2.17 For a formulaic distribution of funding from central government to local authorities, though, we believe that using proxy indicators is most appropriate. This would avoid any perverse incentive for a local authority to identify SEN to secure additional funding. Furthermore, we believe that proxy indicators can work well at the level of distribution to local authorities – where need across a significant population is aggregated together – as distinct from the much more specific needs that are relevant for funding individual institutions.

2.18 Concerns were also raised about the proposal to ring-fence the funding that is passed through to schools, which would mean that local authorities could no longer transfer any of that funding to their high needs budgets.

2.19 We understand the risks for local authorities in managing their high needs budgets without recourse to this particular flexibility, and have looked carefully at how we should help them to mitigate those risks without denying schools the funding they should receive under a formulaic distribution. As well as allowing local authorities flexibility to transfer funding between their schools and high needs budgets in 2017-18, our proposals on this for the longer term are set out in chapter 4 below.

## **Factors in the high needs national funding formula**

2.20 Building on research undertaken by Isos, which looked at how closely a number of proxy indicators correlated with various measures of need, we proposed a formula based on:

- population aged 2-18
- low attainment
- health and disability
- deprivation
- a basic per-pupil entitlement.

2.21 We also proposed an area cost adjustment to the above factors, as well as adjustments to ensure fairness to those local authorities that have pupils and students from other authority areas in the some of the high needs places they fund.

2.22 We proposed not to change the distribution of funding for hospital education until we had further considered options with representatives of the hospital education sector.

2.23 A majority of consultation respondents agreed with our proposed formula factors and adjustments. Having carefully considered the responses, we are confirming the factors we proposed in the consultation, whilst making some small adjustments to our original proposals in light of the feedback received.

2.24 The feedback and amendments are summarised in the table below. More detail on the feedback is in annex A. The proposed weightings and values for each formula factor, and the impacts on local authorities, are set out in chapter 3.

**Figure 3: Responses to the factors in the formula and our actions<sup>6</sup>**

Formula factor	Key issues raised in responses	What we have decided to do, taking into account the responses
<b>Population</b>	<p><b>Agreed 67%</b> <b>Disagreed 19%</b></p> <p>A significant majority agreed to the use of a population indicator. The main issue raised was that limiting the population count to 2-18 year olds would ignore the 19-24 year olds with SEN or disabilities for whom local authorities were also responsible.</p>	<p>We have decided to use the proposed 2-18 age range for this factor, having looked carefully at whether we could include the 19-24 age range. The problem with including 19-24 year olds is that the total numbers in each local area are not necessarily proportionate to the number with high needs, as some enter higher education (which leads to higher populations of this age group in university towns and cities).</p>

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<sup>6</sup> Percentages are only given for those respondents who agreed and disagreed, so may not add up to 100%.



Formula factor	Key issues raised in responses	What we have decided to do, taking into account the responses
<p><b>Low attainment at key stage 2</b></p>	<p><b>Agreed 75%</b> <b>Disagreed 12%</b></p> <p>There was strong agreement on the use of a low attainment proxy, as the strongest available indicator of likely SEN, but there were concerns around the consistency and reliability of data, particularly in light of the potential impact of a changing assessment regime.</p> <p>Some also argued for the use of a low attainment measure at an earlier age.</p> <p>Others argued that a low attainment measure could be perceived as rewarding failure, and was not a good proxy for some types of SEN.</p>	<p>We have decided to use this factor in the formula. We are confident that this is the best available proxy indicator for the types of SEN that typically result in low attainment.</p> <p>We have decided to make this factor more representative of the full range of children and young people for whom funding is allocated (not just the latest annual cohort), by taking the key stage 2 test results over the previous 5 years. This will also smooth any differential impact of previous assessment changes, and mean that we can take time to consider the implications of future changes.</p>
<p><b>Low attainment at key stage 4</b></p>	<p><b>Agreed 73%</b> <b>Disagreed 12%</b></p> <p>Along with the strong agreement to using this factor, similar concerns were expressed as in the responses on low attainment at key stage 2.</p>	<p>We have decided to use this factor as well but, as for key stage 2, will use the results over the last 5 years.</p> <p>This will reflect the characteristics of the 16-24 year old cohort most likely to require high needs funding.</p>
<p><b>Children in bad health</b></p>	<p><b>Agreed 69%</b> <b>Disagreed 18%</b></p> <p>Although a majority agreed with this factor, it generated a slightly more mixed response. There were some concerns expressed that it depends on parental reporting, may not pick up mental health issues, or is out of date.</p> <p>Sometimes low birth weight data was cited as an alternative.</p>	<p>We have decided to use this factor as proposed. We are confident this is a reasonable proxy indicator for health aspects of SEN.</p>

Formula factor	Key issues raised in responses	What we have decided to do, taking into account the responses
<b>Disability living allowance (DLA)</b>	<p><b>Agreed 80%</b> <b>Disagreed 7%</b></p> <p>A large majority of responses agreed with this factor, although some raised concerns that it does not cover the post-16 age group, and that benefit take-up could be low for some groups.</p>	<p>We have decided to use this factor as proposed.</p> <p>We considered extending it to cover the post-16 age group. However, a system of Personal Independence Payments is replacing DLA for the post-16 age group, and this – together with the fact that some of the cohort will be in higher education rather than further education – would add significant complications in extracting and using the data sets, with minimal benefit as we would not expect any significant difference in the distribution of pre- and post-16 high needs.</p>
<b>Free school meal (FSM) eligibility</b>	<p><b>Agreed 76%</b> <b>Disagreed 12%</b></p> <p>There was strong agreement to the use of this factor.</p> <p>Some expressed concerns that FSM take-up has been affected by the introduction of free meals for all infants, with the potential for further issues arising with the introduction of universal credit.</p> <p>Some argued for using the Ever6 FSM measure used in the schools formula.</p>	<p>We have decided to use this factor as proposed.</p> <p>We remain satisfied that FSM is a good proxy for deprivation for the foreseeable future, although we will keep this factor under review as eligibility rules and take-up change.</p> <p>We demonstrated in our first consultation that – for high needs – there is no added value in using FSM eligibility over a 6-year period.</p>

Formula factor	Key issues raised in responses	What we have decided to do, taking into account the responses
<b>Income deprivation affecting children index (IDACI)</b>	<p><b>Agreed 71%</b> <b>Disagreed 16%</b></p> <p>Whilst a significant majority of responses agreed with using this area deprivation factor, there were some concerns about the infrequent updates.</p> <p>Its usefulness in picking up rural deprivation was also questioned.</p>	<p>We have decided to use IDACI as a deprivation factor.</p> <p>We have decided to use 6 IDACI bands, to reflect a wide range of deprivation – including the just about managing group. We have also updated the bands using the latest data, and this is explained in more detail in paragraphs 2.28-29 below and in the technical note.</p> <p>As the dataset used for this factor is not updated frequently, this will increase the stability of the formula from year to year. We note, however, the concerns raised in the consultation about the turbulence created by the last IDACI dataset update. We are looking at how we can manage future data updates.</p>
<b>Basic pupil/student entitlement</b>	<p><b>Agreed 83%</b> <b>Disagreed 5%</b></p> <p>A large majority agreed with this factor.</p> <p>Some responses argued that this factor should include pupils in independent special schools.</p>	<p>We have decided to use this factor, but in the light of consultation responses accept that to be fair to local authorities using independent schools, we should include in the count children whom the local authority is placing in independent schools. This way, every child will attract the equivalent of the basic entitlement, no matter where they are.</p>
<b>Import/export adjustments</b>	<p><b>Agreed 67%</b> <b>Disagreed 17%</b></p> <p>Many comments from local authorities supported these adjustments, in order to reflect cross-border movement of pupils and students resident in one area and attending a school or college in another.</p>	<p>We have decided to use these adjustments as proposed.</p>
<b>Alternative provision factors</b>	<p>We proposed in the consultation that the population and deprivation factors would be used to reflect the need for high needs funding for alternative provision. Some responses expressed concern that only these factors would be used.</p>	<p>We have decided to use these factors as proposed, in view of the correlation between these proxy indicators and the need for alternative provision, pending further proposals on how alternative provision is organised and funded in future (see paragraphs 4.43-44 in chapter 4 below).</p>

Formula factor	Key issues raised in responses	What we have decided to do, taking into account the responses
<b>Hospital education</b>	There was widespread acknowledgment that this is a unique area of funding and a broad consensus around the interim measure of leaving the funding arrangements as they are for now.	We will move forward on hospital education as proposed.  We have produced illustrative allocations of high needs funding to include the level of spending on hospital education, as indicated in local authorities' budget statements for 2016-17.
<b>Area cost adjustment – the question asked which method should be used</b>	<p><b>In favour of:</b>  <b>general labour market 26%</b>  <b>hybrid 61%</b></p> <p>A range of views were expressed, in part reflecting the perceived benefits of different approaches to different areas of the country and, for example, whether using living costs was better than salary costs. A majority of responses came out in favour of the hybrid methodology.</p>	<p>We have decided to use the hybrid methodology, adjusted for special school staffing ratios, recognising that for high needs, a greater proportion of the resource goes on non-teaching staff. This adjustment will therefore give the general labour market a greater weighting than in the equivalent adjustment we have decided to use for mainstream schools in the schools national funding formula.</p> <p>The area cost adjustment is intended to reflect areas with high costs, but is not intended to meet these costs exactly. We believe that including a variety of proxies would over-complicate this measure without increasing accuracy or fairness. We continue to believe that salaries are an appropriate proxy of cost in our area cost adjustment.</p>

**Figure 3: This table shows the percentages of respondents who agreed and disagreed with each proposed factor, the key issues raised, and our decisions on the basis of the responses.**

## Funding to reflect deprivation

2.25 The first deprivation indicator is free school meals (FSM) eligibility. We are intending to use the data from the school census and alternative provision census information collected in the January of each year, and to use pupil postcodes to calculate the number of pupils resident in each local authority area. So for the 2018-19 allocations we would use the January 2017 school census information. For the illustrative allocations included with this consultation we have used January 2016 school census information.

2.26 Prior to the first consultation, we compared just using this FSM eligibility data with the much larger data set containing each pupil's history of FSM eligibility – Ever6 FSM. This is the data set used for the pupil premium, capturing any child who has been eligible

for FSM at any point in the previous six years. At local authority level, however, the differences between using the larger data set and current FSM eligibility were not significant, and we took the view that only the latter should be used. We are confirming that this is the approach we will take, in order to keep the formula simple.

2.27 We are also confirming a second deprivation indicator which uses area-level deprivation data from the income deprivation affecting children index (IDACI). This formula factor adds a measure of deprivation that reflects localities that are more deprived, rather than the socio-economic circumstances of particular households.

2.28 In the light of the consultation responses, and discussions with local authorities since the update of the IDACI dataset in September 2015, we published new IDACI bands for local authorities to use in their local formula, and these are explained in the [2017-18 schools revenue funding operational guidance](#).

2.29 We have decided to use, in the high needs national funding formula, 6 IDACI bands, to reflect a wide range of relative deprivation, including the areas with families that are just about managing as well as those from the most deprived neighbourhoods. The 6 bands together capture 42% children living in areas with an IDACI score of 0.20 or above.

### **Low attainment formula factor**

2.30 The low attainment factor will be based on the number of pupils not achieving level 3 or above in the key stage 2 tests, and the number not achieving 5 or more A\* to G GCSE grades at key stage 4. Instead of taking a snapshot of the latest data each year, we think a better approach would be to take data from results over the last 5 years, as this more accurately represents low attainment across the whole cohort of children and young people for whom high needs funding is being allocated.

2.31 This approach will parallel the treatment of low prior attainment within the schools formula, where pupils identified as having low prior attainment continue to attract funding throughout the relevant phase of education (i.e. primary or secondary).

2.32 The new key stage 2 tests, introduced in summer 2016, are deliberately more challenging than the previous tests and, as expected, have resulted in more pupils being identified as not having met the expected standard, probably largely due to an increase in our expectation of the standard, rather than because the pupils sitting these tests have achieved less than previous cohorts. We will look carefully at how to identify those pupils with the lowest levels of attainment from the assessment data we have available, so we can incorporate the 2016 assessments in the low attainment data set for this factor in future.

## **Health and disability**

2.33 We are not proposing any changes to the children in bad health and disability living allowance factors as, having investigated alternatives, we are satisfied that these, together with the deprivation and low attainment factors, are reasonable proxies for high needs.

2.34 The children in bad health data will not change until we can see what changes come through in the next population census. The illustrative allocations included in this consultation use the 2011 census data and the data on disability living allowance claims that was available before November 2016. The latter will be updated as new data becomes available.

## **Area cost adjustment**

2.35 We received strong support for our proposal to include an area cost adjustment in the high needs funding formula to reflect the variation in labour market costs. The majority of respondents thought we should use the 'hybrid' area cost adjustment methodology which takes into account general labour market trends, but also the particular salary variations in the teaching workforce. And in the first consultation we explained that, if we adopted this model, we proposed to reflect the different proportions of teaching and other staff that are in special schools. Our area cost adjustment methodology is explained in more detail in the technical note.

## **'Import/export' adjustment**

2.36 Many of the comments received from local authorities in response to the first consultation welcomed the adjustments we proposed to make sure that the formula properly reflects costs that differ depending on whether the authority places more children in schools and colleges in other local authority areas than it receives into its local schools and colleges from other areas, or vice versa. Local authorities that import more pupils than they export face higher costs because the costs of the place funding and other core funding for schools and colleges in their area – in excess of the basic entitlement (i.e. £6,000 per annum) – are met from their high needs allocations, regardless of which local authorities the children taking those places live in.

2.37 The data we intend to use for this adjustment is, in each local authority, a comparison of the number of pupils and students with high needs who are resident in the area with the number with high needs who are attending institutions in the area. In each case the number of pupils and students with high needs is identified using data from the January school census and individualised learner record (ILR) which records those pupils and students attending a maintained special school or special academy, or those attending other institutions for whom the institution receives top-up funding.

2.38 We are sharing this data with local authorities as part of this consultation. We will offer authorities the opportunity to scrutinise the detail of the data to be used in the actual allocations, to make sure that schools and colleges are correctly recording the information.

## **Transition to a new distribution of high needs funding**

2.39 We proposed two elements that would help smooth the transition to a new formulaic distribution of funding to local authorities. The first was that the formula allocations should include a proportion of each authority's planned spending on high needs in 2016-17.

2.40 The second was to have an overall minimum funding guarantee (MFG) that would mean local authorities' high needs funding would not reduce by more than a specified percentage each year.

2.41 We recognise the importance of making sure that local authorities both know how their funding levels will change in future years, so they can plan ahead, and have time to make changes that secure improvements to special and alternative provision which are affordable. We have been clear that the transitional arrangements proposed are intended to ensure that those children and young people with SEN and disabilities who are already placed in schools, colleges and other institutions can remain in those placements, where that is best for their needs. Any changes to special educational provision for individual children and young people (for example through the annual review of statutory education, health and care plans) considered by local authorities should be driven by the appropriateness and effectiveness of the provision for the individual. Changes to the range of provision across an area should primarily ensure that what is on offer is of good quality and suitable for those coming into the system or reaching points of educational transition.

2.42 This is the main reason why we proposed to have in the formula an element of funding based on what local authorities are currently spending, as well as a minimum funding guarantee. Most responses were in favour of the former (77%); even more favoured the latter (89%). Overall, the response to the consultation was clear that respondents placed a particularly high value on giving local authorities and schools protections against unmanageable changes to their high needs funding as a result of the introduction of the national funding formula.

2.43 We believe it is important to keep a significant element of local authorities' current spending in the formula, at least until we next review the formula. As well as smoothing the transition, this also reflects the views expressed by those who sought a formula that took into account the actual costs that local authorities are currently facing. This will remain as a cash amount that will not be updated from year to year. We are therefore referring to this element of the formula as the historic spend factor.

2.44 The strong support for a minimum funding guarantee also reflects the importance of keeping year-on-year changes to a manageable level. A significant number of responses argued that no local authority should lose funding for high needs, as this was the best way to make sure that there was no adverse impact on children and young people.

2.45 In recognition of the importance we place on supporting children and young people with high needs, and the responses on this issue we received in the consultation, we are now proposing a funding floor, such that the national funding formula distribution will not result in any local authority losing funding. This replaces, and offers significantly more protection than, our previous proposals for a minimum funding guarantee.

2.46 Our detailed proposals on the historic spend factor and this funding floor are set out in chapter 3, and we have also set out in chapter 4 a range of additional support to help local authorities manage and deliver best value from their high needs spending.

## **Changes to the way that funding for SEN and disability is distributed to institutions**

2.47 We also sought views and information on a range of issues relating to how the funding for SEN and disability is distributed to individual institutions, including changes to the funding of institutions with students aged 16-25 who have high needs. As explained in chapter 4, we will be consulting in 2017 on the detail of proposals relating to special free schools and post-16 institutions. In this part of the first consultation, there were two specific schools proposals on which we are now able to respond.

- We proposed changes to the funding of special units attached to mainstream schools.
- We also proposed a change to the way that some independent special schools receive their funding.

## **Funding of special units and resourced provision**

2.48 A majority of respondents (55%) agreed with our proposal to change the way that schools with special units are funded, on the grounds that it would be simpler and more transparent. Specifically, they agreed that including the pupils in the main school pupil count would avoid complicated adjustments in applying the main school formula.

2.49 Special units and resourced provision in mainstream schools are an important bridge between specialist and mainstream provision. The provision is designated by the local authority, as a place where the specific needs of pupils with education, health and care plans can be met. Often these units provide specialist support for particular types of learning difficulty or disability, and are recognised as local centres of excellence, drawing



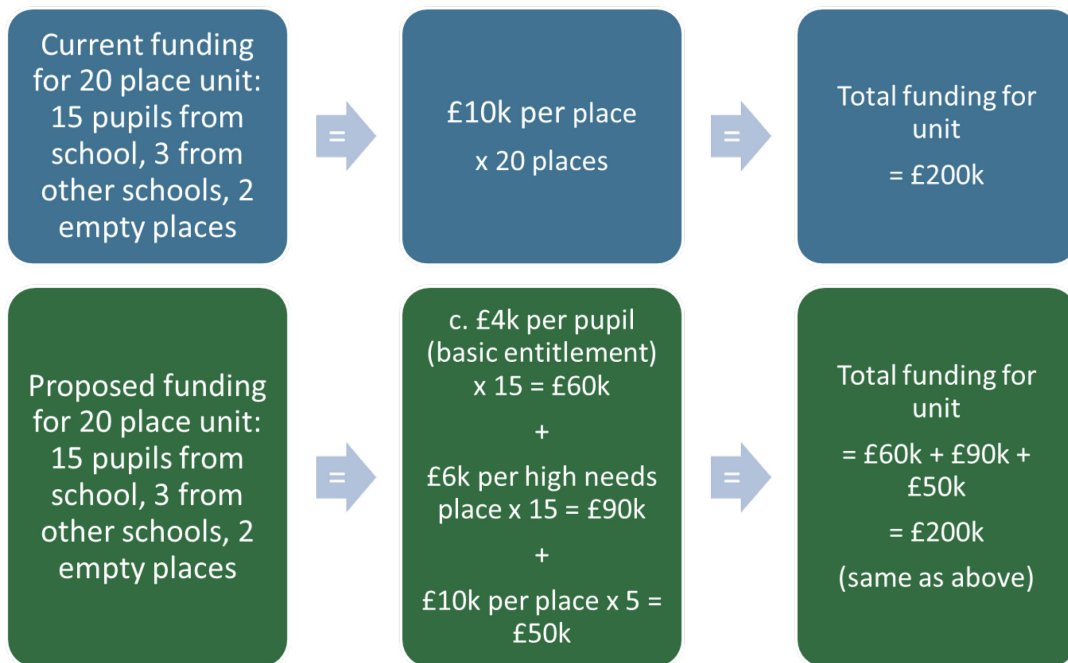
in children and young people from a wider area. They also provide the opportunity for pupils with SEN and disabilities to be integrated into mainstream education, and it is therefore important that they are seen as part of the school, and are under the same overall management and budget structure as the rest of the school.

2.50 This is one of the reasons why we proposed a change to the methodology for funding these units. At present these units are funded by the local authority (if they are a maintained school) or the EFA (if they are an academy) on the basis of £10,000 per place, with the place number deducted from the pupil number used for the rest of the school's mainstream funding through the local formula to avoid double-counting. From 2018-19 this deduction will not be made: instead the school's budget share (or the equivalent academy funding) will be determined on the basis of the full number of pupils on the roll of the school, including those in the special unit or resourced provision. The balance of funding for this kind of special provision will come from the place funding (at £6,000 per place), decided in accordance with the local authority's commissioning decisions, and the top-up funding for individual pupils.

2.51 There were concerns that the proposed change would disadvantage schools accepting pupils into their units in-year or from other schools (because pupils admitted would not be on the relevant school census count determining the school's mainstream funding for the following year).

2.52 We have therefore decided on a change to the original proposal, so that places occupied by pupils on the roll of the school at the time of the school census return are funded at £6,000 per place, as originally proposed, but places not filled by pupils on the school roll at the time of the census count are still funded at £10,000. As an example of how this would work, figure 4 below shows how the change will be accommodated without adversely affecting a school's budget.

**Figure 4: Funding of special units in mainstream schools: example**



**Figure 4: This diagram shows how funding would be calculated for an example unit under current arrangements, and under the new proposal.**

2.53 Operational guidance for 2018-19 will explain how the data required to implement this change will be collected.

2.54 This change will reduce how much of the funding of special units comes from the high needs block, and increase how much comes from the schools block. For the purpose of the illustrative allocations included with this consultation, we have transferred £92 million from the high needs funding block to the schools block to reflect this change, with a corresponding deduction to the 2016-17 high needs baseline for each local authority and a corresponding addition to individual schools' baselines. Our illustrative allocations, based on the schools and high needs national funding formulae, are therefore on this basis.

### Funding of independent special schools

2.55 We also proposed offering independent special schools on the section 41<sup>7</sup> list the opportunity to receive a combination of place funding from the EFA and top-up funding from local authorities, instead of the current arrangement whereby they receive all of their

<sup>7</sup>Joining the list of approved institutions under section 41 of the Children and Families Act 2014 allows independent special schools to come under the same statutory admission arrangements as maintained special schools, special academies and non-maintained special schools. The section 41 approved list can be found at: Department for Education, '[Independent special schools and colleges](#)', September 2016.

funding from local authorities. Of the 54% who disagreed, some were concerned about the high cost of some independent school places, and the mechanism for getting the funds from local authorities. Bearing in mind these costs, some respondents thought funding could be wasted if places were not filled or became vacant during the year. Only 33% of respondents agreed with this proposal. The National Association of Independent Schools and Non-maintained Special Schools and the Independent Schools Council were generally supportive, but there was not significant support from those independent special schools on the section 41 list.

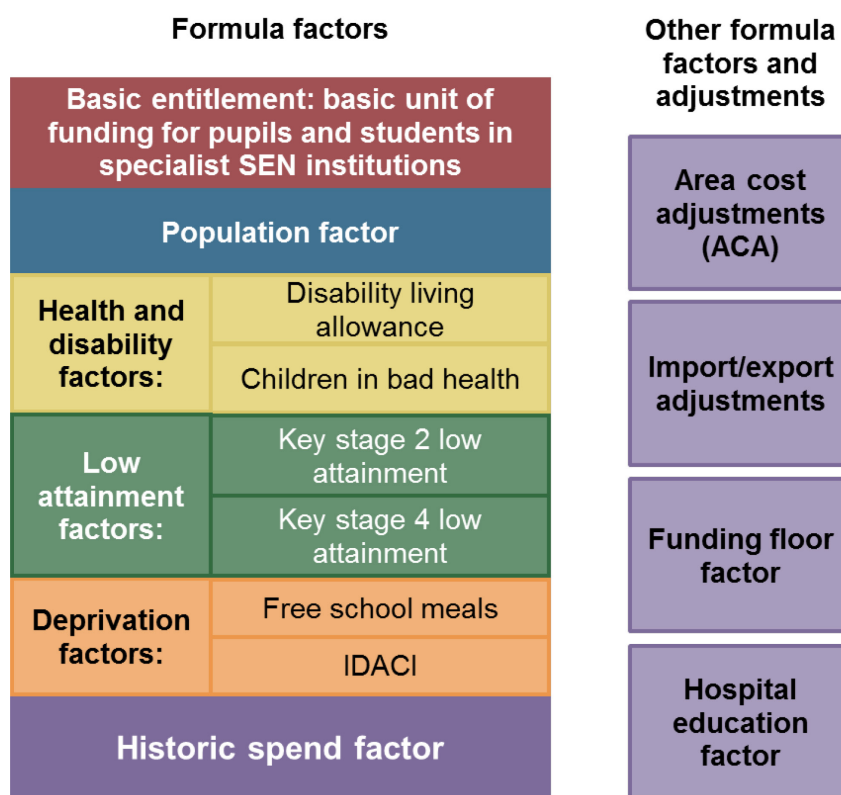
2.56 Having considered these responses, on balance we have decided not to offer independent schools the option of place funding direct from the EFA at this stage.

# Chapter 3: new proposals on the high needs funding formula for consultation

## Introduction

3.1 As set out in the preceding chapter, we can now confirm that the national funding formula will comprise the following factors and adjustments as proposed, and with the addition of a funding floor adjustment – see figure 4 below.

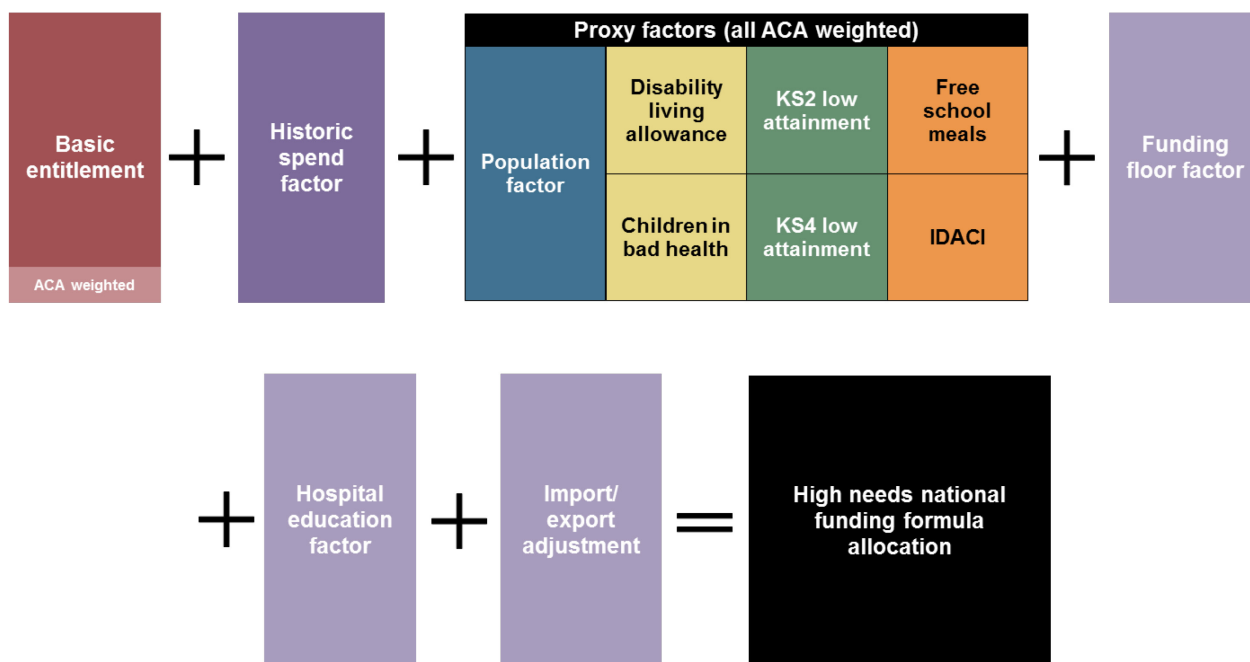
**Figure 5: The building blocks and factors in the high needs national funding formula**



**Figure 5: This diagram shows that the formula is comprised of the following: a basic entitlement; factors for population, health and disability, low attainment, deprivation, historic spend, a funding floor and hospital education; and adjustments for area costs and imports/exports.**

3.2 The diagram in figure 6 below shows the basic steps that will be taken in the formula calculations and how the factors will be applied in the national funding formula. Chapter 2 explains the changes we have made to the data we proposed in the first consultation, and more detail on the data sources and how the formula will work is provided in the technical note.

**Figure 6: How the national funding formula will be calculated**



**Figure 6: This diagram shows how the factors will be added together to give the formula allocation, with an area cost adjustment applied to the proxy factors and basic entitlement.**

3.3 We are now consulting on the relative weighting of each factor. Once this consultation has concluded and we confirm the final formula weightings, local authorities' high needs allocations for 2018-19 and beyond will be calculated by applying the formula and the transitional arrangements outlined later in the consultation.

### **The current distribution of funding is an important consideration in developing a national funding formula**

3.4 As we explained in the first stage of consultation, our initial reference point for introducing a national funding formula is the current high needs funding system. We need to move to a formulaic distribution of funding, but without creating undue and unmanageable turbulence. Sufficient stability is one of our core principles for funding reform, and this was reinforced by the response we received to the first stage of the consultation. We have looked closely at how high needs are funded presently and the choices local authorities have made to arrive at those differing spending patterns.

3.5 The incorporation of an historic spend factor in the formula is therefore where each allocation calculation will start. This will be a cash sum, derived from local

authorities' baseline information<sup>8</sup>. We propose to calculate the cash sum for each local authority at 50% of this baseline amount. Broadly, this means that about half of the total high needs allocations would be allocated according to existing spending patterns.

3.6 This amount would be held as a cash flat amount in the formula until the formula is reviewed, which will be in 4 years. On the basis of the illustrative allocations included in this consultation, the overall funding for this factor would amount to £2.5 billion.

3.7 As we explained in the first consultation, funding hospital education will also be allocated to local authorities on the basis of historic spending. For the purposes of the allocations illustrated in this consultation we are using the information about planned spending in 2016-17 on hospital education, reported by local authorities in their section 251 budget statements. The overall amount required for this hospital education factor, using the data currently available, is £73 million.

3.8 The funding floor is intended to ensure the current level of provision for children and young people with high needs is protected. Our intention therefore is to use 2017-18 planned spending baselines in the formula for 2018-19. We will carry out a further baseline exercise with local authorities in order to gather information about the split of the planned spending of the 2017-18 dedicated schools grant (DSG) (excluding the early years funding block for which the baselines have already been set) between high needs, schools and central schools services. Given the re-baselining we have already carried out, and the imminence of the national funding formula, we would not expect significant movements between the various blocks. Where there have been significant changes we will liaise with local authorities to understand them, and to ensure the revised amounts are appropriate to use as baselines for the high needs national funding formula, or consider whether the 2016-17 position provides a better starting point.

## Remaining funding formula factors

3.9 The next element that will be included in each local authority's allocation of high needs funding is a flat rate per pupil in a special school or special post-16 institution, to mirror what mainstream schools receive through the schools national funding formula for their pupils with high needs, and all institutions receive through the post-16 national funding formula.

3.10 Each local authority will receive this basic entitlement through the high needs formula<sup>9</sup>. It is appropriate that this element of funding is directed first to local authorities,

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<sup>8</sup> For the purpose of the illustrative allocations in this consultation, we have used the 2016-17 planned spending baseline information, collected from local authorities earlier in 2016. We have adjusted the baselines to reflect spending on high needs that is not reported by local authorities and to remove some aspects of funding that will be funded through the rest of the formula, as explained further in the technical note.

as an initial contribution towards the total cost of the places that they determine in accordance with their commissioning decisions and plans.

3.11 We have considered the level at which this basic entitlement should be set. The equivalent in schools currently varies between local authority formulae and between phases<sup>10</sup>, and under the schools national funding formula will continue to vary between key stages, with separate age-weighted pupil unit values for the primary and secondary phases<sup>11</sup>. The current equivalent basic entitlement in the 16-19 national formula is £4,000. The advantage of a standard amount for all age groups is simplicity. Given this is a proxy factor, to contribute to the place funding, and not intended as an amount that is passed through directly to institutions, or for identified pupils and students, we think that it is better to keep to a simple standard amount. We therefore propose that the amount to be distributed through this element of the formula is £4,000 per pupil/student.

3.12 Some of the responses to the first consultation argued that the amount that should be distributed through this factor should be the full value of the place funding, i.e. £10,000, as nothing less would fully compensate local authorities for the costs of the place funding. This would not be the right approach, however, as it would create a perverse incentive in the funding system for local authorities to place a higher proportion of their children and young people with special educational needs (SEN) and disabilities in special schools. So far as is possible, we want the funding system to be neutral on the question of where those children and young people with SEN and disabilities receive their special provision, and to avoid creating any perverse incentives that lead local authorities to favour particular types of provider. Authorities should be making decisions about provision in accordance with their statutory duties, and primarily on the basis of what is suitable for meeting the child's or young person's needs. So the funding for the additional £6,000 required to meet the total £10,000 for each place will come through the historic spend factor, and formula factors and adjustments described later in this chapter.

3.13 The £4,000 per-pupil basic entitlement would be calculated on the basis of the school census and individualised learner record (ILR) data from the academic year prior to the December in which the local authority high needs allocations are calculated. So for the high needs formula calculations of local authorities' 2018-19 DSG we would use the January 2017 school census (recognising that many special schools do not reach full place occupancy in the first term of the academic year) and, for post-16 institutions, the final ILR return for the 2016/17 academic year. In response to questions raised in the first

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<sup>9</sup> Because we are proposing to continue the arrangement whereby non-maintained special schools and special post-16 institutions are funded directly by the Education Funding Agency (EFA) on the basis of school census and individualised learner record (ILR) data respectively, for the purpose of this element of the formula we are intending to treat the EFA in the same way as a local authority.

<sup>10</sup> The primary values in local formulae range from £2,345 to £4,993, and the secondary values from £3,287 to £7,291.

<sup>11</sup> The schools national funding formula consultation proposes £2,712 for key stages 1 and 2, £3,797 for key stage 3 and £4,312 for key stage 4.

consultation, we are also adding in data from the alternative provision census supplied by local authorities on the number of pupils placed in independent special schools. On the basis of the calculations we have made for the illustrative allocations included with this consultation, this element of high needs funding amounts to about £470 million.

3.14 The remainder of the high needs funding block – £2.5 billion – would be distributed through the remaining formula factors, according to proposed weightings set out in the table below. These are derived from a separate consideration of those factors that are relevant to the funding for SEN and disability, which comprises about 90% of total spending, and those that are relevant to alternative provision, which comprises about 10% (these percentages exclude spending on hospital education)<sup>12</sup>.

**Figure 7: High needs national funding formula factor weightings**

Formula factor	Proposed weightings			Data we have used for illustrative allocations
	SEN (90%)	AP (10%)	Com-bined	
1. Population	50%	50%	50%	Latest population aged 2-18 projection for 2018 from the Office for National Statistics (ONS)
2. Deprivation				
a. Free school meals (FSM) eligibility	8.3%	25%	10%	Number of children eligible for FSM
b. Income deprivation affecting children index (IDACI)	8.3%	25%	10%	Number of children in bands A-F from 2014 ONS population estimates
3. Low attainment				
a. Key stage 2 (KS2) results	8.3%	0%	7.5%	Number of children not achieving level 3 or above in KS2 tests in 2011-15
b. Key stage 4 results	8.3%	0%	7.5%	Number of children not achieving 5+ A* to G GCSEs in 2011-15
4. Health and disability				
a. Children in bad health	8.3%	0%	7.5%	Number of children and young people declared as in bad or very bad health in the 2011 census
b. Disability living allowance (DLA)	8.3%	0%	7.5%	Number of children aged 0-15 for whom parents receive DLA

<sup>12</sup> These proportions are derived from the totals of local authorities' planned expenditure figures as reported in their section 251 2016-17 budget statements: Education Funding Agency, '[Section 251: 2016 to 2017](#)', updated December 2016.



**Figure 7: This table shows the weighting proposed for each of the formula factors and the data we have used for the illustrative allocations**

## **Population factor**

3.15 Distributing funding by reference to the population of children and young people resident in the local authority area reflects that in every given population of a certain size there will be a proportion of those with high needs. If we take an area the size of even the smallest local authority, we know that there is a minimum incidence that should be funded through a general population factor.

3.16 We have carried out analysis on what proportion of funding it would be appropriate to allocate through this factor. First, we have assumed that the national incidence of pupils with statements of SEN and education, health and care (EHC) plans is a reasonable approximation for the incidence of high needs across the country. We know that 2.8% of the overall pupil population has a statement of SEN or EHC plan, so if all local authorities were at this point, it would be possible to allocate the vast majority of funding simply according to the population in each area. Apart from two particular outliers, the local authorities with the lowest proportion pupils with statements of SEN or EHC plans have about half the average<sup>13</sup>.

3.17 To reflect this association between population and incidence of high needs, we propose that the population factor weighting is set at 50%. £1.3 billion will be allocated through this factor.

## **Deprivation, low attainment, health and disability factors**

3.18 The Isos research argued for a basket of measures that together represented a reasonable proxy for the extent of high needs in the area, and it was apparent from their analysis that there was no rationale to give any particular factor within that basket of measures more weighting than the others. We have looked at more recent data and we agree with their conclusion on this. Like Isos, we have considered other weightings, but have found that changes to the relative weightings between these factors has little effect to the overall distribution. In general, we do not think there is any reason to prefer higher weightings for one factor over the others. We therefore propose the simple approach of giving equal weighting to most of the formula factors.

### **Deprivation**

3.19 For the deprivation factor, however, we have also taken into account that 10% of high needs funding is spent on alternative provision and that, of all the factors other than population, deprivation is most closely correlated to the need for alternative provision as

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<sup>13</sup> Department for Education, [‘Special educational needs in England’](#), January 2016

a result of school exclusions. The other factors in the formula do not display any significant correlation to the need for alternative provision. As indicated in the table above, we are therefore proposing to give proportionately more weighting to the deprivation factor, accounting for 20% of the amount allocated through the population and other proxy indicators. The funds distributed using deprivation factors will amount to about £510 million.

3.20 The distribution of funding for alternative provision is necessarily subject to review as we consider how it should be organised and funded in future. We will make proposals about any new approach to this element of funding in due course.

3.21 In the first stage of consultation a majority of respondents supported our proposal to use both pupil and area deprivation information in the national funding formula. The deprivation factor will therefore comprise two, equally weighted indicators, in order to make the most of the different strengths these data sources.

3.22 The first deprivation indicator is free school meals (FSM) eligibility. The second is area-level deprivation, measured by the income deprivation affecting children index (IDACI). Chapter 2 explains the intention to use 6 IDACI bands. We have decided that the best approach for weighting these bands is to use the same weightings that are used in the schools national funding formula, as there is little justification for an alternative approach for the high needs formula. Further information about how these measures will work in the high needs formula is set out in the technical note.

### **Low attainment**

3.23 We are proposing to allocate 15% of the amount allocated through this part of the formula (about £380 million) on the basis of low attainment data at key stages 2 and 4, with equal weighting given to each.

### **Health and disability**

3.24 We are proposing to allocate 15% (about £380 million) through these factors as well, with half allocated on the basis of the children in bad health data from the 2011 population census and half using the latest disability living allowance data.

3.25 The data used in the calculation of the low attainment and health and disability formula factors, and an explanation of how the calculation works, is set out in the technical note.

## **Adjustments to reflect geographical costs, cross-border placements and the funding floor**

### **Area cost adjustment**

3.26 The area cost adjustment is applied to all the factors in the formula, except those based on historic spending, as higher area costs will already implicitly be reflected in historic spending levels, hospital education funding and the import/export adjustments. The area cost adjustment equates to an increase of up to 20.4% for local authorities (mainly in London) where schools face the highest salary costs.

### **'Import/export' adjustment**

3.27 As indicated in the first consultation, the adjustment will be the net difference in pupil and student numbers, multiplied by £6,000, resulting in an increase for the importing local authorities and a decrease for the exporting authorities. The technical note contains more information about the adjustments and how they are applied in the formula.

### **Funding floor adjustment**

3.28 The final adjustment in the formula is a funding floor such that local authorities that would otherwise lose funding under the other factors in the formula are protected. The funding floor will be set so that no local authority sees a reduction, compared to their spending baseline.

3.29 The basic entitlement factor, hospital education funding and import/export adjustment will be excluded from the funding floor calculation so that year-on-year changes to these data sets, which closely match the actual movement of pupils and students and therefore direct costs on local authorities, flow through in full to each local authority's allocation. The illustrative allocations included in this consultation are based on the 2016-17 planned spending baseline, using the information collected from local authorities in March/April 2016. We intend to collect similar information relating to local authorities' planned spending in 2017-18, with a view to using this as the baseline for calculating the funding floor adjustment for 2018-19 and subsequent years<sup>14</sup>.

3.30 The funding floor adjustment effectively replaces – and offers significantly more protection than – the stage 1 consultation proposal for a minimum funding guarantee that no local authority would lose more than a certain percentage from their planned spending year-by-year. The department's spending review settlement last year provided a real terms protection, which enables a year-on-year increase in high needs funding in each year of the current spending period to 2019-20. This increase allows us to make sure

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<sup>14</sup> As noted in paragraph 3.8 above, where there are significant changes we will liaise with local authorities.

both that there are no losses through the funding floor, and that those gaining receive a fairer allocation as quickly as possible.

## **Funding increases under the high needs national funding formula**

3.31 We will use the additional funding available in 2018-19 and 2019-20 to make sure that all local authorities due to gain funding under the formula will see an increase. To remain affordable, we will allow gains of up to 3% per year. On the basis of the illustrative allocations for the first year of the formula, published alongside this consultation, we expect that 20 local authorities due to gain up to 3% will get their gains in full in 2018-19, and a further 15 authorities due to gain will get their increases in full by 2019-20. We cannot commit to a level of subsequent increases for the remaining local authorities, as the additional funding available for such increases will be subject to decisions taken in a future spending review.

3.32 We recognise that local authorities due to gain most through the formula will not receive their full gains straight away. We could have scaled the gains in proportion to the amount by which they are under-funded according to the formula, rather than imposing a limit on the gains, but we believe that the 3% limit is the best way to get the majority of authorities onto their formula allocation within the first 2 years.

## **Illustrations of how high needs funding will change over time**

3.33 We have calculated illustrative allocations in the first year of the operation of the formula (2018-19), taking account of our proposals for the funding floor and the level at which we can afford to pay out gains. These are also calculated on the basis of no change to pupil numbers or other data. Local authorities can anticipate changes in data, and will be able to use the published formula to estimate the effect that such changes would have on their funding levels. We have also illustrated final formula allocations on the same basis.

3.34 Our assessment of the impact of the formula and other proposals on individual pupils and students with certain (protected) characteristics can be found in the equalities impact assessment<sup>15</sup>. The formula will affect the distribution of high needs funding between local authorities and chapter 4 explains how we will support local authorities, and those schools, colleges and other institutions making special and alternative provision, in the move to these new national funding formula arrangements.

3.35 We have also assessed the impact of the proposed formula at regional level. Figure 8 shows how the gains in our illustrative allocations are distributed between the regions. The Yorkshire and Humber region gains the most overall in both cash and

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<sup>15</sup> The equalities impact assessment is available on our [consultation page](#).

percentage terms, at £49 million, or 11.6% above its gains baseline. The inner London region gains the least above its current level, with an overall gain of £3 million, or 0.7% above its baseline.

**Figure 8: Gains under the proposed formula by region**

LA grouping	High needs formula			
	No. of LAs	Number (%) of LAs gaining	Largest % gain*	Total gains
Inner London	13	5 (38%)	4.7%	£3m
Outer London	19	5 (26%)	19.7%	£10m
East Midlands	9	3 (33%)	22.9%	£17m
South East	19	5 (26%)	19.3%	£16m
Yorkshire and the Humber	15	13 (87%)	20.0%	£49m
North West	23	13 (57%)	17.6%	£26m
South West	15	4 (27%)	11.3%	£5m
East of England	11	6 (55%)	12.7%	£20m
West Midlands	14	11 (79%)	12.4%	£36m
North East	12	7 (58%)	19.0%	£8m

\* Above gains baseline

**Figure 8: This table shows, for each region under the proposed formula, the number and percentage of local authorities that would gain, the largest percentage gain a local authority would experience, and the sum of gains for all local authorities.**

3.36 The funding floor means that no authority will face a reduction in high needs funding, compared to their planned spending baseline. This level of protection should minimise the impact on those providing places and services, and make sure that the focus is on securing improvements in the quality and efficiency of what is provided. Some local authority areas will see gains because historically the authority has directed more of its DSG to mainstream schools. Chapter 4 explains how local authorities can continue to support schools from their high needs budget.

3.37 We believe that the formula now proposed will enable a fairer distribution of high needs funding, but we will consider changes to the formula in the light of data that may become available in future, and we will undertake further research. In particular, we will:

- investigate whether there is scope for more data sharing between government departments and agencies to improve the indicators that are used in the high needs funding formula, and
- explore the complex relationship between costs, provision and outcomes for children and young people with SEN and disabilities to see if the results of this work point to the use of more appropriate formula factors or data.

## Question 1

In designing our national funding formula, we have taken careful steps to balance the principles of fairness and stability. Do you think we have struck the right balance?

*We ask respondents to bear in mind with the following two questions that we are redistributing funding. Any money that we put into one factor will have to come from another factor. We have indicated what we think is the right proportion or amount for each factor.*

## Question 2

We are proposing a formula comprising a number of formula factors with different values and weightings. Do you agree with the following proposals?

- Historic spend factor – to allocate to each local authority a sum equal to 50% of its planned spending baseline
- Basic entitlement – to allocate to each local authority £4,000 per pupil

## Question 3

We propose to use the following weightings for each of the formula factors listed below, adding up to 100%. Do you agree?

- Population – 50%
- Free school meals eligibility – 10%
- IDACI – 10%
- Key stage 2 low attainment – 7.5%
- Key stage 4 low attainment – 7.5%
- Children in bad health – 7.5%
- Disability living allowance – 7.5%

**Question 4**

Do you agree with the principle of protecting local authorities from reductions in funding as a result of this formula? This is referred to as a funding floor in this document.

**Question 5**

Do you support our proposal to set the funding floor such that no local authority will see a reduction in funding, compared to their spending baseline?



## Chapter 4: introducing a new formula distribution to local areas

4.1 This chapter considers some of the implications of implementing new funding formulae for high needs and schools, in the context of the legal framework under which local authorities, schools and other education providers operate.

- We set out some proposals for local budget flexibility, on which we would welcome views, and offer some guidance on how we envisage this will work best through stronger local partnership arrangements.
- We also set out information about the importance of strategic reviews of special and alternative provision, and planning ahead, and about the financial help that we are providing to support this activity.
- Finally, there is a section that focuses on the roles and responsibilities of some of the different types of education provider who cater for children and young people with high needs, and on any planned changes to their funding.

4.2 The new formula, with increases for the under-funded local authorities and the protection of the funding floor, will direct high needs funding towards the areas where it is most needed, while providing necessary stability. But we recognise that local authorities will need to keep their high needs spending under review, to ensure they continue to support children and young people within the budgets available, and identify more efficient ways of promoting excellence. So we have considered further how best to provide support which will help local authorities, working in partnership with others, manage cost pressures and spend their high needs allocation more efficiently.

### Meeting the needs of all children and young people

4.3 The Children and Families Act 2014 is clear that children and young people with special educational needs (SEN) should be educated in mainstream schools and other mainstream provision unless their SEN require more specialist provision<sup>16</sup>. 14.4% of school pupils in England are identified as having SEN; 2.8% have more complex needs, requiring a statement of SEN or an education, health and care (EHC) plan. This means that 11.6% – some 992,000 pupils – receive SEN support through their mainstream school<sup>17</sup>.

4.4 Primary and secondary schools – together with mainstream early years settings and general further education (FE) colleges – therefore have a central role to play in meeting the needs of their pupils with SEN and those who are disabled. They need to

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<sup>16</sup> Department for Education and Department of Health, '[SEND Code of Practice](#)', pages 25-26, paragraphs 1.26-29, updated May 2015

<sup>17</sup> Department for Education, '[Special educational needs in England](#)', January 2016

work together with their local authority in making suitable provision, and to integrate pupils so far as is possible, giving them the same opportunities to achieve good outcomes as all other pupils.

## Local budget flexibility

4.5 As set out in the parallel consultation on the national funding formula for schools, we intend to move to a system in which, by 2019-20, mainstream schools will have their funding determined centrally. Local authorities will, therefore, have a very limited role in deciding what schools receive in respect of their mainstream pupils. Such an approach – which we have called a ‘hard’ formula – is the best way of funding schools on a comparable basis, no matter where they are in the country.

4.6 Because a hard formula would determine the funding for each school, the effect is to ring-fence the schools funding block, preventing the transfer of that funding into the authority’s high needs budget, as is now possible. To prepare authorities for this, and make sure that mainstream schools were funded as closely as possible in line with the national formula, in the first consultation we proposed a ring-fence around mainstream schools’ funding for the years before the hard national funding formula. In the responses to that consultation, schools were generally in favour of that approach.

4.7 A number of respondents, however, raised concerns about our proposal to ring-fence the schools block within the dedicated schools grant (DSG). They argued that the separation of the schools and high needs blocks would have an adverse impact on local authorities’ and schools’ willingness to work in partnership, to take collective responsibility for making special provision for those with SEN and disabilities, and to co-operate as required by the Children and Families Act. They also thought this ring-fence would significantly affect local authorities’ ability to manage their high needs budgets.

4.8 The high needs funding block was established in 2013 on the basis of local authorities’ spending patterns in 2012-13. The recent baseline exercise showed that since this point, 113 authorities have moved a total of £327 million into their high needs budgets, and 36 authorities have moved £57 million from their high needs budgets into schools and early years<sup>18</sup>. These shifts in spending to some extent reflect changing patterns of provision over time (see paragraph 4.45 below and figure 9). They also demonstrate that, although many local authorities have managed certain cost pressures by transferring funds from their mainstream schools, a small number of others are spending less than we have allocated for high needs, choosing instead to move that

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<sup>18</sup> Movements of funding have been calculated by comparing the 2016-17 baselines agreed with local authorities through the 2016 baseline exercise, and published in July 2016, with the 2016-17 allocations first published in December 2015: Education Funding Agency, ‘[Schools funding arrangements 2017 to 2018](#)’, updated December 2016; Department for Education and Education Funding Agency, ‘[Dedicated schools grant \(DSG\): 2016 to 2017](#)’, updated November 2016

Correction on 22 December 2016: from 114 and 37 authorities to 113 and 36 authorities.

funding into schools. This may be because the schools in those areas are generally taking more responsibility for meeting the needs of pupils with SEN without recourse to extra funding from the local authority's high needs budget.

4.9 Given this variation in approach and the cost pressures some local authorities face, we accept that some continuing local flexibility will be important in making sure and that the funding system is responsive to changes in the balance of mainstream and specialist provision within a local area, and that schools and local authorities can work together effectively and efficiently in making provision for children and young people with high needs.

## **Local flexibility in the funding arrangements**

4.10 The arrangements we are proposing would allow limited local flexibility so that the distribution of resources reflects the way children and young people with high needs are placed.

4.11 Schools can be disadvantaged financially if they admit a disproportionate number of pupils with high needs. In the current funding system, local authorities can use funding from their high needs budgets to support mainstream schools that are particularly inclusive, as well as expanding special schools or units, and many authorities already do this. Local authorities will continue to have flexibility to target additional high needs funding to mainstream schools, over and above the funding provided by the schools national funding formula.

4.12 We are also confirming two further local flexibilities in the funding arrangements:

- a. As announced in July 2016, there will be no ring-fence on the schools block in 2017-18. Local authorities are able to transfer funding between their schools and high needs budgets. We will monitor this carefully and in March 2017 will collect more information to establish new planned spending baselines on schools and high needs, as explained in paragraph 3.8.
- b. In 2018-19 and subsequent years there will be no restrictions on the transfer of funding between the high needs funding block, the central schools services block and the elements of early years funding that local authorities are allowed to retain for central spending. It will also remain possible for local authorities to transfer funds into their high needs budgets from sources other than their DSG allocation.

4.13 Furthermore, in 2018-19 we propose to provide an opportunity for local authorities to transfer funds, from the funding that schools are due to receive through the schools formula, to their high needs budget. To exercise this flexibility, local authorities would have to get the agreement of their schools forum and a majority of primary and/or secondary schools and academies (with transfers confined to the primary and secondary elements of the schools block as agreed by phase). We will review the degree of movement in 2017-18 through a second baseline exercise and, in the light of that,

consider whether there should be a limit on transfers in 2018-19, amounting to no more than, say, 2% or 3% of the high needs block allocation. In any case local authorities would continue to be obliged to meet the minimum funding guarantee for mainstream schools.

4.14 It is important that over the next two years this budget flexibility is used with care, and in the context of the local strategic review and planning they are carrying out to ensure the sustainability of future special provision (see below). It should be used to help reshape the local offer, to prepare for future funding levels, and not to postpone planning decisions and the benefits that can accrue from taking such decisions early. We could publish guidance on what would constitute a good reason to consider making use of this flexibility (for example, to reflect a real movement of pupils from mainstream to specialist provision), in order to strengthen schools' ability to reach a sensible judgement on local authority proposals.

### **Question 6**

Do you agree with our proposals to allow limited flexibility between schools and high needs budgets in 2018-19?

### **Continuing local flexibility and partnership working**

4.15 From 2019-20, once mainstream schools' budgets are predominantly determined by the hard national funding formula, the funding system must respond fairly in areas which make extensive use of specialist provision. We propose to provide a mechanism whereby schools in an area could agree, with their local authority, to pool some funding that could then be directed towards those schools that need it most for their pupils with SEN – both more inclusive mainstream provision, and specialist provision (for example special units, resourced provision or special schools) funded from the authority's high needs budget. This local budget could be created by a small charge on each school's budget which, together with funding from the local authority's high needs budget, would deliver support to children and young people with high needs, regardless of where they are placed. Such an approach could make a real difference to the support that can be given to children and young people with high needs.

4.16 We think such arrangements would present an opportunity for schools to demonstrate how, in partnership with the local authority, they are discharging their responsibilities for meeting the needs of all children and young people with SEN and disabilities. We believe local decisions on the arrangements would best be taken by schools working collectively, either across a local authority area or in smaller groups. Crucially, such decisions should be made in the context of the local authority's overall strategy for making special and alternative provision (see paragraphs 4.17ff below). The first consultation has started a helpful debate on these issues, and we will continue to work with stakeholders on the future of the schools forum, the shape of local partnership

arrangements, and the funding flexibility outlined above that would support such arrangements. We will be seeking to introduce such arrangements from 2019-20 onwards.

### **Question 7**

Do you have any suggestions about the level of flexibility we should allow between schools and high needs budgets in 2019-20 and beyond?

## **Local strategic planning for SEN and disability provision**

4.17 Local authorities, schools and other education providers have important responsibilities for children and young people with SEN and disabilities, set by the Children and Families Act 2014, and for those who need alternative provision. We believe that these responsibilities are discharged most effectively when there is a strong partnership between the local authority and education providers (in particular its mainstream and special schools, and alternative provision), and a shared understanding of where different types of need are best met. This must be reflected in the published local offer of SEN provision and services.

4.18 Sometimes such partnership arrangements work well in a single local authority area, and elsewhere they can work better where smaller clusters of schools work together, with responsibilities and funding devolved by the local authority. Partnerships can also be productive where education providers and local authorities work across authority boundaries and across phases – for example, schools working with early years or further education providers on packages of support that help with the crucial transition points that children and young people, and their families, often find difficult to manage.

4.19 In addition, engagement with parents and young people is crucial, to ensure that the range and quality of provision reflects the needs and aspirations of children and young people in the area.

### **Keeping special educational provision under review**

4.20 The Children and Families Act 2014 requires local authorities to keep the provision for children and young people with SEN and disabilities under review (including its sufficiency), working with parents, young people, and providers<sup>19</sup>. The Act is clear that, when considering any reorganisation of provision, decision makers must be clear how they are satisfied that the proposed alternative arrangements will lead to improvements in the standard, quality and/or range of educational provision for children with SEN.

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<sup>19</sup> Department for Education and Department of Health, '[SEND Code of Practice](#)', chapter 4, updated May 2015

4.21 Local authorities must involve children and young people with SEN and disabilities, and their parents, in reviewing the special educational provision in their area. Local authorities should do this in a way which ensures that children, young people and parents feel they have participated fully in the process and have a sense of co-ownership or 'co-production'. Local authorities should ensure that their arrangements for involving children, young people and parents include a broadly representative group of the children and young people with SEN and who are disabled in their area. Effective parent participation can lead to better outcomes for children and young people and other benefits: a better fit between families' needs and the services provided; higher satisfaction with services; reduced costs (as long-term benefits emerge); better value for money, and better relationships between those providing services and those using them.

4.22 When reviewing the services and provision in this way, local authorities must work with key partners, including a range of education providers. The partners who are required to co-operate with the local authority include:

- the governing bodies of maintained schools and proprietors of academies and free schools in the local authority's area;
- the proprietors of non-maintained special schools, and of independent special schools and special post-16 institutions which have been included on the section 41 list of institutions approved by the Secretary of State, and which are in the local authority's area or provide education or training for children and young people in the area;
- the governing bodies of further education colleges and sixth form colleges that are in the local authority's area or are attended or likely to be attended by young people from their area;
- any other person (other than a school or college) that makes special educational provision for children or young people for whom the local authority is responsible, including providers of relevant early education.

4.23 As indicated above, the review of special educational provision must include provision outside the local area that the local authority expects is likely to be used by children and young people with SEN for whom they are responsible. Such provision must be included in the published local offer. This could, for example, be provision in a further education college in a neighbouring area or support services for children and young people with particular types of SEN that are provided jointly by local authorities. It should include relevant regional and national specialist provision, such as provision for children and young people with low-incidence and more complex SEN.

4.24 Such review activity is particularly important when local authorities anticipate receiving different levels of high needs funding in future or where they anticipate that needs in their area are changing. Accordingly, the forthcoming changes to high needs funding mean such a review should be given priority in all areas.

#### 4.25 Local authorities may wish to consider:

- data on the range of SEN in the area, recent trends and likely changes in the future (for example arising from demographic growth);
- evidence for how effectively the current pattern of special educational provision meets needs in the area. It may be helpful to consider feedback from parents and young people on the local offer (including the quality of existing provision and any gaps);
- evidence for how effectively the current pattern of special educational provision prepares children and young people for adult life (particularly employment and/or higher education; independent living; participation in society; and being as healthy as possible);
- the range of special educational needs which would generally be met by mainstream providers, including early years settings, mainstream schools and academies, and post-16 institutions (further education and sixth form colleges), and the way in which these institutions access the specialist training and workforce development they need;
- the range of SEN and disabilities which would generally be met by specialist providers, including special units or resourced provision in mainstream schools, special schools and academies, non-maintained and independent special schools and special post-16 institutions;
- the range of SEN and disabilities which would generally be met by highly specialised providers, including those operating at a regional or national level such as residential special schools, non-maintained and independent special schools and special post-16 institutions;
- how best to address any gaps in provision identified by the review;
- how best to allocate resources to deliver this provision.

#### 4.26 We envisage three key outcomes emerging from these reviews:

- a. A strategic plan for high needs provision that makes sure there is an attractive offer for parents and young people which will meet the needs of future cohorts, at a cost that is sustainable. This might include, for example:
  - i. measures to support mainstream schools in meeting the SEN of a wider range of pupils, for example through workforce training or clear routes to access specialist expertise;
  - ii. changes to the focus of existing specialist places, to cater for different or more complex needs;

- iii. the creation or expansion of specialist provision attached to mainstream schools (special units or resourced provision);
  - iv. identification of the need to the create or expand special schools, and
  - v. strategic engagement with specialist providers in the non-maintained and independent sector, to make sure that the places they are offering reflect the changing needs of children and young people.
- b. More effective collaboration between local authorities to secure efficient delivery of:
- i. SEN assessment and support services;
  - ii. specialist provision for more complex needs;
  - iii. more standardised approaches to high needs top-up funding that facilitate better cost control and reductions in bureaucracy.
- c. Better value for money in special schools and other specialist institutions. For example, where an institution is operating with empty places, the review may secure better value through a change to commissioning; or where a school is not as efficient as it could be, the review may support better procurement of utilities, benchmarking of costs and other measures that release more resources that can be focused on improving the quality of provision and outcomes.

### **Working with health and social care partners**

4.27 Local authorities should link reviews of education, health and social care provision to the development and review of their local offer. This will help to identify gaps in provision and ensure that the local offer is responsive to the needs of local children and young people and their families.

### **Strategic planning**

4.28 If they have not already done so, having reviewed their provision for children and young people with SEN and disabilities, local authorities should develop and publish strategic plans that set out how such provision should be made, using the high needs funding they expect to receive in future, in a way that works for parents and young people. They need to make sure the pattern of provision is suitable to meet changing needs, that parents and young people find it attractive, and that it will be affordable within future allocations.

4.29 These plans should cover the special educational provision offered by early years providers, mainstream and special schools (including academies, and non-maintained and independent special schools), and the range of post-16 institutions (including further education and sixth form colleges, and special post-16 institutions) and the way in which those mainstream and special schools and other institutions access the training and



workforce development relating to SEN and disabilities they need. They should be developed in consultation with neighbouring authorities, particularly where children with SEN and disabilities from one local authority area receive their special provision in another.

4.30 Many local authorities have carried out such reviews and planning recently or are currently consulting with providers, parents and young people, to explore the extent to which special provision needs to be adjusted. In paragraphs 4.35ff below we set out the financial support that is available so that all local authorities can take forward their reviews and preparation of strategic plans.

### **Collaboration between local authorities**

4.31 We would encourage local authorities to work together when reviewing their special educational provision, using the extra resources that we are making available. The Children and Families Act is clear that the local offer must include provision outside the local area that is likely to be used by children and young people with SEN and disabilities. Many local authorities are already developing such collaborative approaches.

4.32 Local authorities may wish to consider combining specialist SEN and disability services, for example for expert professionals such as educational psychologists and specialist teachers, so that sustainable centres of expertise are created, providing schools and other institutions with the extent and quality of specialist support they need.

4.33 Children and young people with SEN and disabilities from one local authority area frequently receive provision in another, for example at a special school or further education college. Neighbouring local authorities should work together when considering the quality and sufficiency of such provision. It may be more efficient for a group of local authorities to develop and share a single centre of excellence.

4.34 We would particularly encourage local authorities to work together when considering provision to meet low incidence but high complexity SEN. Such provision is frequently offered by providers which operate at a regional or national level, often through independent or non-maintained special schools and specialist post-16 institutions. It may be much more efficient for a group of local authorities to take a combined approach when engaging with such highly specialist providers. Sharing intelligence across a region would allow a group of local authorities to develop a strategic plan for meeting low incidence but high complexity needs, reviewing the quality and sufficiency of existing provision and working with providers to ensure the provision available meets both current and anticipated needs. This would offer a number of benefits, including reducing costs by removing duplication in the commissioning and quality assurance process. It would also allow highly specialised providers to plan ahead, ensuring the provision they offer reflects the likely demand from commissioning local authorities.

## Support for local authorities in managing change

4.35 We are providing additional funding to support local authorities, both their review of their special educational provision and their preparation and implementation of strategic plans.

- The department is providing additional revenue funding in 2016-17 to help local authorities conduct a strategic review of their special educational provision, and/or to implement any changes (see paragraphs 4.36-38 below).
- Where the plans require capital funding to build new places or improve existing ones to make them more suitable, the costs could be supported by the new special provision capital fund (see paragraphs 4.39-40 below). In addition, the department is considering expressions of interest from local authorities to seek proposals for special free schools (see paragraph 4.42 below), which would also attract central capital funding.

## High needs strategic planning fund

4.36 We are allocating £23 million of additional funding in 2016-17, to increase local authorities' capacity to undertake this strategic review and planning activity. We intend that this high needs strategic planning fund will be used both to fund high-quality collaborative review and planning of special provision (where appropriate, jointly with neighbouring authorities) and, particularly where such review and planning work has already been undertaken along the lines envisaged, to help implement the outcomes of the reviews.

4.37 The funding will be distributed in 2016-17, as it is anticipated that most local authorities will wish to start or develop their review and planning this financial year, if they have not already done so, but as the funding will not be ring-fenced they will be able to carry forward the funding. We will not only expect a review to be carried out (if one has not already been done) but also, to encourage transparency and engagement with local communities on these issues, for the outcome to be published. And we will of course expect the review to lead to changes that are deliverable in practice and implemented effectively, with support from the local community of parents, schools and other institutions.

4.38 We are publishing details of the level of allocations of this strategic planning fund alongside this consultation.

## Capital investment

4.39 Local authorities may identify a need for capital investment for new places in special and mainstream schools and academies, or improvements to special and mainstream schools and academies that make them more suitable for pupils with SEN and disabilities. The new places could be in new or existing schools.

4.40 Capital funding of at least £200 million (over and above basic need funding which can also be spent on SEN places) will be allocated to help build new places at mainstream and special schools, and to improve existing places to benefit both current and future pupils. Local authorities, through consultation with local stakeholders, will decide how best to spend their allocation to meet local needs. We will set out more information about the fund in early 2017. The use of this capital funding should be consistent with the overall strategic plans that authorities have drawn up or will be developing.

4.41 Local authorities are also able to commission new schools (both special and mainstream) via the free school presumption route, drawing on the basic need and special provision capital funding sources. We also approve and fund new mainstream and special schools via the central free schools route, drawing on other departmental capital funding. In the case of special free schools we only approve these where the local authority supports the application.

4.42 We recently created an additional, one-off process giving local authorities a more proactive role in commissioning new special free schools that would be funded centrally. We invited local authorities to identify whether they believe a new special school would be a beneficial way of providing some of their new places, and we are currently reviewing the expressions of interest received, in order to decide which are the most compelling cases. The most compelling cases will then be advertised for free school proposers to apply for, and where proposals come forward that meet both the local authority's and the department's requirements they will be funded in the same way as other central free schools.

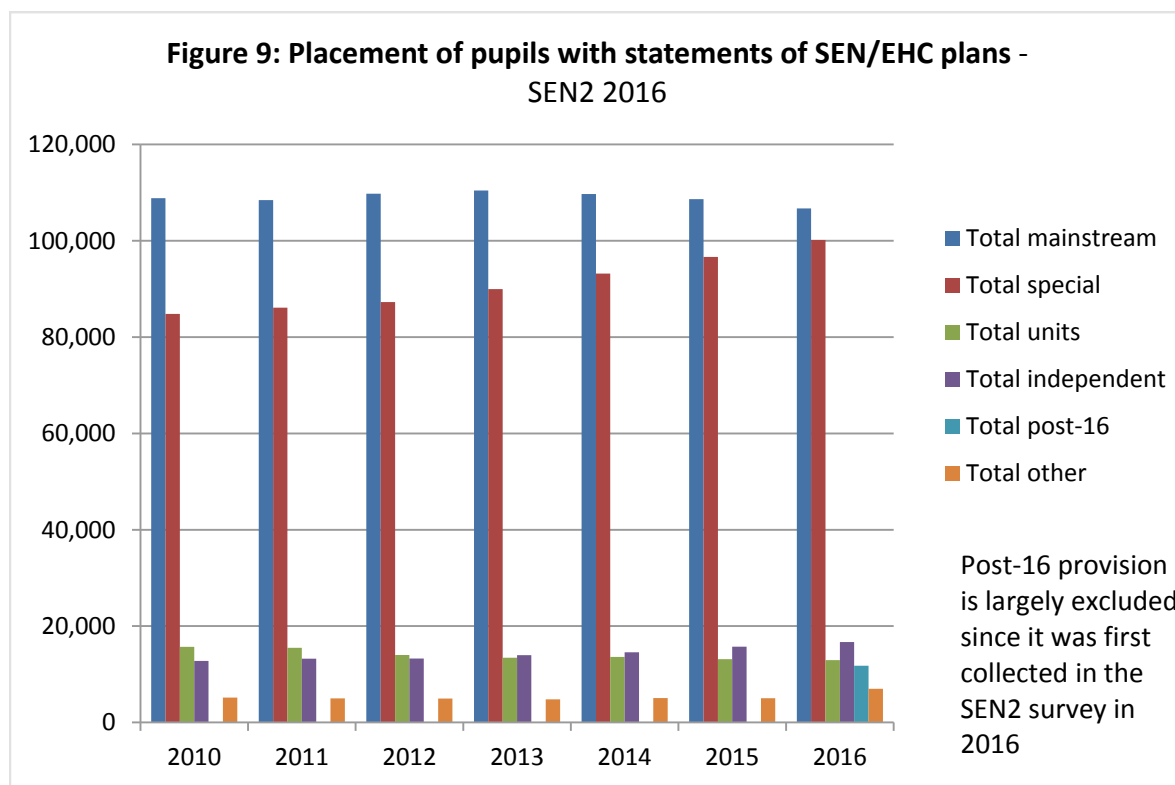
## **Alternative provision funding**

4.43 Much of what we have said about local budget flexibility, and strategic review and planning activity in the preceding sections of this chapter is as relevant to alternative provision as to provision for children and young people with SEN and disabilities. Local authorities and schools should bear in mind that we have set out our intention for schools to have more responsibility in future for commissioning alternative provision that is required for their pupils, including any whom they have permanently excluded. This would be accompanied by accountability for pupils' educational attainment while they are in alternative provision. Any increase in responsibility for commissioning alternative provision would mean that schools should have more control over the funding.

4.44 We are taking the necessary time to properly consider various funding models, including the approaches already being taken in some local authorities where funding for alternative provision is distributed to schools or groups of schools. We will be able to say more on this in due course.

## Support for schools, colleges and other providers

4.45 As part of the statutory EHC needs assessment process, when drafting an EHC plan, the local authority should consider what provision will best meet the individual's needs. Nationally just under half of pupils with statements of SEN or EHC plans are in mainstream schools<sup>20</sup>. Some in mainstream schools receive their support in special units or resourced provision (which is a type of special provision involving more integrated teaching and learning). Although for many years the number of pupils with EHC plans or statements of SEN has remained fairly constant, at about 2.8% of overall pupil numbers, the proportions in mainstream and special schools has changed.



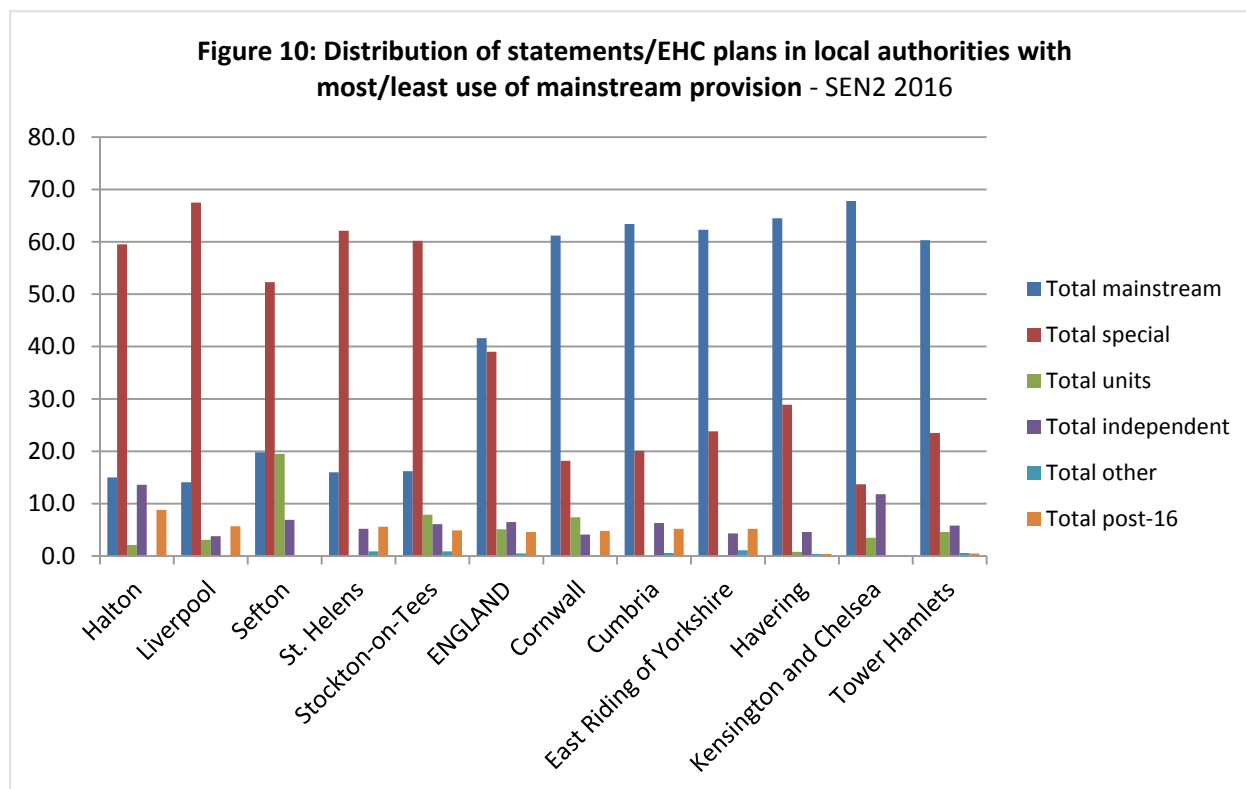
**Figure 9: This chart shows how the number of pupils with statements of SEN/EHC plans in each type of provision has changed from 2010-16.**

Source: Department for Education, '[Statements of SEN and EHC plans: England, 2016](#)', updated June 2016

4.46 The pattern of high needs spending, which provides the baseline for the new funding arrangements, partly reflects the variety of ways in which provision for SEN has developed and been organised in local areas, over time. Some areas take a highly inclusive approach, with the majority of children and young people with SEN placed in mainstream schools, and the local authority providing additional resource, for example through spending on central services or targeting extra funding to individual schools. Other areas have more specialised provision, and have needed to transfer money from

<sup>20</sup> Department for Education, '[Statements of SEN and EHC plans: England, 2016](#)', updated June 2016

schools to their high needs budgets to fund places in special schools or other specialist provision. Figure 10 highlights those local areas with the most and least use of mainstream provision for meeting SEN.



**Figure 10: This chart shows the local authorities with the most use of mainstream provision (Cornwall, Cumbria, East Riding of Yorkshire, Havering, Kensington and Chelsea, Tower Hamlets) and the least (Halton, Liverpool, Sefton, St. Helens, Stockton-on-Tees).**

Source: Department for Education, '[Statements of SEN and EHC plans: England, 2016](#)', updated June 2016

4.47 Taking into account the wide range of education providers who are responsible for making provision for children and young people with SEN and who are disabled, in the first consultation we set out some proposals for changes to the way that schools, colleges and other providers receive high needs funding for those with more complex needs. We are not asking further questions about these in this consultation. The following paragraphs set out how we intend to proceed, including those aspects of special provision funding on which we will undertake more detailed consultation at a later stage.

## Changes to early years SEN and disability funding

4.48 We have already consulted on some specific funding changes that will enable more focused support for young children with SEN and disabilities, and the government response to this early years funding consultation was published in December 2016<sup>21</sup>.

<sup>21</sup> Department for Education, '[Early years funding: changes to funding for 3- and 4-year-olds](#)', updated December 2016

There will be a new disability access fund of £615 per child per year to support access to early years provision. This fund will be for three- and four-year olds who are taking up their free entitlement and are in receipt of disability living allowance. In addition, we will legislate to require all local authorities to build on existing good practice by having a local SEN inclusion fund, by April 2017, to support providers in improving outcomes for young children with SEN. Local authorities will need to include this in their local offer.

## Helping schools to be more efficient

4.49 We have put in place a comprehensive package of support to help schools improve their efficiency and financial health, including a collection of tools and guidance<sup>22</sup> to help school leaders, governing boards and business management professionals improve their financial management and make the most of the funding they receive. It covers subjects such as budget planning, financial governance and procurement. Just as this will help mainstream schools with the transition to the schools national funding formula, it will also help special schools as they seek to make sure that as much of their funding as possible is going towards helping their pupils achieve the outcomes identified in their EHC plans. There may also be a case for more fundamental restructuring of provision, for example, through the creation of multi academy trusts.

## Mainstream school funding

4.50 Earlier in this chapter we have emphasised the important role and responsibilities of mainstream schools in meeting the needs of children and young people with SEN and who are disabled. We acknowledge, however, that teachers and practitioners do not always feel equipped to meet the wide range of SEN. It is particularly important that mainstream schools are able to draw on specialist support and advice so they are confident in offering high-quality education to all. The schools, colleges and early years settings in an area should work together to ensure that good practice is shared and that they have access to effective support and expertise in identifying and meeting particular needs (for example, sensory impairment, autism or behaviour support).

4.51 We have proposed significant changes to the way that mainstream schools are funded, as part of the separate consultation on the national funding formula for schools. To reflect pupils' additional needs, we have included deprivation and low prior attainment factors in the new funding formula. To some extent these will also reflect the extra costs that mainstream schools face in making provision for pupils with SEN and disabilities, and local authorities usually calculate each schools' notional SEN budget<sup>23</sup> to include

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<sup>22</sup> Department for Education and Education Funding Agency, '[Schools financial health and efficiency](#)', updated July 2016

<sup>23</sup> The notional SEN budget is an amount that local authorities are required to identify and include in their notification to each school of its total budget share, as calculated by the local funding formula. It is a notional amount: schools should use their total budget for all their pupils, including those with SEN, and the amount of the notional SEN budget is no substitute for schools' own assessment of how much they need to spend on their pupils with SEN.

some or all of the funding allocated through these factors in their local formula. We accept, however, that local authorities with a high proportion of mainstream places for those pupils with high needs will not need to resource as many high needs places elsewhere, and that this should be reflected in the local distribution of high needs funding.

4.52 As part of our further work to prepare for the 'hard' national funding formula for schools in 2019-20, we will therefore look carefully at:

- how, in the absence of a locally determined notional SEN budget, schools can be reassured that their resources, as determined both through the national funding formula and any local flexibility, are sufficient for making special provision for their pupils with SEN and disabilities, and in particular to meet the costs of additional support, up to £6,000 per annum, for those with high needs; and
- how local authorities are currently compensating mainstream schools which are particularly inclusive of children and young people with high needs. It may be feasible, as the Isos research report proposed, to publish more specific guidance about what local authorities can do to make sure that schools are appropriately funded if they take a disproportionate share of pupils with SEN and disabilities.

4.53 Similarly, in proceeding with the local flexibility proposed in paragraphs 4.15-16 above, we will provide more guidance on how that can reflect areas where the pattern of provision for children and young people with SEN and disabilities is weighted towards specialist places, rather than mainstream places.

### **Funding of special units and resourced provision**

4.54 In the first consultation we proposed changes to the funding of special units and resourced provision in mainstream schools. As set out in paragraphs 2.48-54 of chapter 2, we are intending to introduce this change from 2018-19, with a modification in response to concerns expressed during the consultation, and continue the new methodology into the arrangements for subsequent years.

### **Special school funding**

4.55 Special schools educate pupils for whom mainstream education is not appropriate. We indicated in the first consultation that we are not proposing to make any substantive changes to the way they are funded. As now, all except independent special schools (see paragraph 4.64 below) will continue to receive place funding at £10,000 per place, with the rest of their budgets made up from local authorities' top-up funding in respect of individual children and young people occupying the places.

4.56 As in the allocations process for 2017-18, we will expect local authorities to agree with all the special schools located in their area how many places should be funded in each school, based on the number of pupils already in the school who will still need

places, and any changes envisaged as a result of the commissioning plans of the local authority and any neighbouring authorities.

4.57 The Education Funding Agency (EFA) will continue to have a process by which local authorities provide information about those places to be funded in special academies, with arrangements for settling disputed place numbers. The funding for those places will then be deducted from local authorities' high needs allocations before the dedicated schools grant (DSG) is finalised at the end of March, and paid by the EFA to the special academies directly. More information about how this process will operate leading up to the 2018-19 DSG allocations will be provided in the autumn of 2017.

### **Special free schools**

4.58 To help local authorities manage the demand for more SEN places, the department has increased the high needs funding block within their DSG allocations in each year since 2013, when the new high needs funding system was introduced.

4.59 Despite these increases there have been no recoupment deductions made for extra SEN places in special free schools. Instead, special free schools have been funded for their places directly by the department, with funding outside the DSG. New free schools receive funding based on estimates of the places needed for their pupils in order to give them sufficient funding when they open. The EFA collects data from special free schools and looks at school census data to decide on appropriate levels of place funding for subsequent years. In the 2016/17 academic year, special free schools' place funding amounted to just under £13 million<sup>24</sup>. None of this is recouped from local authorities, even though the number of pupils at a special free school depends mainly on local authorities' placement decisions.

4.60 Currently, special free schools are only established with the support of local authorities prepared to commission places as part of the evidence of demand for the new SEN places that will be created. Furthermore, local authorities have recently been asked to express interest in establishing new special free schools, where they are needed to expand the specialist provision available locally.

4.61 In the context of the implementation of a distribution of high needs funding according to a national formula which recognises any increase in the number of pupils in special schools and academies, we are considering carefully how the place funding for special free schools should work in future. There is certainly a case for arrangements that more closely align the funding of special free schools both with the funding of special academies, and with local authorities' strategic role in organising and securing suitable provision for children and young people with SEN and disabilities in their area.

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<sup>24</sup> Education Funding Agency, ['High needs: allocated place numbers'](#), updated December 2016



4.62 We will consult next year on detailed proposals for changes to the source of special free schools' place funding from 2018-19, and on how that would work with the high needs national funding formula baselines, factors, methodology and distribution. In the meantime, not least because they will need to bear the cost of special free schools' top-up funding from their high needs budgets, local authorities should take into account in the review and planning of special provision in their area, the cost of provision in these special schools.

### **Non-maintained and independent special schools**

4.63 We are intending to continue the arrangements established last year, that the place funding of £10,000 per place for non-maintained special schools should be determined and allocated by the EFA on the basis of pupil number data collected directly from schools, rather than as a result of a separate data collection from local authorities. We have decided on this approach because this type of special school typically serves a larger number of local authorities than other types of special school, and we wanted to keep the data collection and collation exercise as simple as possible.

4.64 As indicated in chapter 2, we are not proposing at this stage to incorporate independent special schools into the arrangements for place and top-up funding. Local authorities will remain responsible for funding the full costs of placements in independent schools, subject to the school being named in an EHC plan.

### **Changes to SEN and disability funding for colleges and other FE institutions**

4.65 In the first consultation we set out how high needs funding for post-16 institutions might change in future and undertook to consult further on specific proposals, once further work had been done to look at the impact. We suggested two changes:

- a. to pay the place funding for special post-16 institutions on the basis of a flat rate of £10,000 per place, so that it is consistent with what special schools get<sup>25</sup>; and
- b. to distribute the high needs place funding in mainstream provision (currently paid at £6,000 per place) through the main post-16 national funding formula, with adjustments to the factors in that formula, except in the case of schools and colleges with a special unit designated by the local authority, and FE institutions with 10 or more places<sup>26</sup>.

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<sup>25</sup> Currently special post-16 institutions receive funding through the post-16 national funding formula, consisting of a basic entitlement (full-time) of £4,000 per annum, and funding for disadvantaged students (on the basis of their prior attainment in English and maths and a measure of deprivation), plus funding of £6,000 per annum for the number of high needs places.

<sup>26</sup> Currently all post-16 provision for students with high needs is funded through the arrangements described in footnote 25 above: funding through the post-16 national funding formula and funding for a number of high needs places at £6,000 per place.

4.66 We have done some further work on this and discussed the implications of the changes with a number of organisations representing different providers. Although they have not considered the changes to be particularly problematic for the majority of general FE and specialist colleges, we want to take time to get this right and carry out some further analysis.

4.67 In addition, since we first consulted:

- a. The area reviews of FE are resulting in a number of college mergers and rationalisation of provision. We need to make sure these can be reflected in modified funding arrangements without disrupting the flow of funding to the new institutions.
- b. The EFA and Skills Funding Agency are working more closely together, under the umbrella of a single government department, and this will provide an opportunity to consider whether there is a better approach to the funding of 19-25 year olds, for whom the existence of an EHC plan determines the source of funding available to the student and the type of study programme they are on. Furthermore, some local authorities are having difficulties in promptly transferring students previously subject to a learning difficulty assessment on to the new EHC plans, and this has highlighted more issues with this dual funding system that need to be addressed.
- c. And finally, the government has published its post-16 skills plan, accepting the recommendations made by the Independent Panel on Technical Education, headed by Lord Sainsbury. We want to better understand the impact of these recommendations before proceeding with further changes to high needs funding for post-16 institutions.

4.68 Taking these developments into account, we want to reflect further before making specific proposals. We will therefore consult later with the post-16 sector on any changes to be brought in from the 2018/19 academic year.

### **Question 8**

Are there further considerations we should be taking into account about the proposed high needs national funding formula?

### **Question 9**

Is there any evidence relating to the eight protected characteristics as identified in the Equality Act 2010 that is not included in the Equalities Analysis Impact Assessment and that we should take into account?

## **Chapter 5: Looking ahead – what happens next**

5.1 We think it is important for local authorities and schools to have sight of the changes we will be making to the funding system, and to understand when they will get new information about how they will be implemented.

### **Process for setting 2018-19 allocations**

5.2 Final 2017-18 dedicated schools grant (DSG) allocations to local authorities, including high needs funding, are being published in December 2016. As part of this consultation, authorities are also being notified of allocations of the high needs strategic planning fund, which will be paid in January 2017.

5.3 The consultations on the national funding formulae for high needs and schools will run until 22 March 2017.

5.4 During this time we expect local authorities to start their strategic reviews and planning of special and other high needs provision, if they have not already started or completed such activity. In early 2017 we will also notify local authorities of special provision capital funding allocations.

5.5 The department will undertake further consultations on high needs funding changes for special free schools and post-16 providers and will carry out a further baseline exercise with local authorities, which will include collecting information about budget movements between the high needs and schools funding blocks.

5.6 Following these consultations and the baseline exercise, the department will finalise the national funding formula for high needs and announce allocations for 2018-19 in the summer.

### **Research into outcomes, benefits and costs of high needs provision**

5.7 As indicated in paragraph 3.37 above, we intend to make better use of research to help to inform our planned review of the high needs national funding formula, and to inform local authorities and schools as they consider how to develop future provision to achieve the greatest impact on the lives of vulnerable children and young people. We are exploring how best to do this through existing ongoing research in the short term, and commissioned external research in the longer term. Such research would aim to:

- a. investigate the complex relationship between costs, provision and outcomes for children and young people with special educational needs (SEN) and disabilities;
- b. recommend any consequential changes to the high needs funding formula that could be included in the department's formula review, including the use of more appropriate formula factors; and

- c. consider whether more needs to be done to protect and fund national and regional centres of specialist provision and expertise, including provision for those with the most complex needs.



Department  
for Education

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