

Schools Forum - 30th March 2021

Report of the Director of Children's Services

SEND Needs Funding Matrix

Purpose

1. Dudley Metropolitan Borough Council (Dudley LA) is proposing to change the way in which it calculates funding for maintained schools, academies and special schools to deliver the special provision in their pupils' Education, Health & Care Plans (EHCPs).

Dudley LA is proposing to move from the current Banded Framework to a SEND Funding Matrix for mainstream maintained schools and academies and Needs Led Funding arrangements for special schools.

The reason for this change is to ensure funding for SEND pupils with an EHCP is fair, equitable and transparent, but ultimately sustainable, as the current banded framework has not changed for the last 10 years and does not reflect the needs of these learners who need additional support to access the curriculum.

The responses to Dudley LA's consultation on this proposal are detailed and have received thorough consideration to enable it to satisfactorily address all of the queries from the different stakeholders. Therefore, Dudley LA is now looking to adopt a phased approach to the implementation of the new funding arrangements with an implementation date of 1st April 2021 for special schools and an implementation date for mainstream maintained schools and academies from 1st September 2021.

Recommendations

2. It is recommended:-
 - That the contents of this report are considered and the SEND Matrix Funding arrangements for mainstream maintained schools and academies are noted;
 - That the contents of this report are considered and the Needs Led Funding arrangements for special schools are noted;

- That the report phased approach described in Option C for the implementation of the new funding arrangements be noted;
- That the Service Director for Education, SEND and Family Solutions, who is responsible for the implementation of the SEND Funding Matrix, is authorised to instruct officers, in particular the Head of SEND, to carry out the recommended actions.

Background

3. The local demand for SEND services has continued to grow and Dudley LA is struggling like many other local authorities to meet that need within the allocated High Needs budget. In line with this national trend, children and young people in Dudley LA's area have exhibited an increasing need for support in both special and mainstream schools.

Schools currently receive Top-Up Funding, i.e. Element 3, to fund special provision for pupils and students with SENDs and EHCP in order for them to access education and learning, this amount is over and above the school's Core Funding for every pupil.

The current Top-Up funding model in Dudley LA's mainstream maintained schools and academies is distributed via the '*Banded Framework*', this mechanism has not been revised since the change in the SEND Code of Practice introduced by the Children and Families Act 2014 and the amounts within each Band has not been updated in more than 10 years. As a result, it has been necessary for Dudley LA to provide additional funding to the 'Top-up' to schools, known as '*Exceptional Funding*', leading to significant financial pressure. Exceptional Funding does not have criteria linked to its formulation, so there have been concerns about the fairness, equity or transparency of the distribution and use of 'Exceptional Funding' for quite some time.

It is evident from Dudley LA's research into this matter that a long-term sustainable approach to manage the cost pressure is needed alongside a funding mechanism that significantly changes practice and culture.

The introduction of the SEND Matrix Funding that is based on 'needs' will enable Dudley LA to act as the commissioner by specifying the resource value attached to each pupil and requiring settings to work to that amount.

4. Research

As documented in the consultation papers, for the last 18 months a new method of funding has been researched by Dudley LA as a potential replacement for the current Banded Framework. This has led to the development of the Dudley SEND Assessment Matrix (SEND Needs Funding Matrix) Tool.

Several testing sessions undertaken across mainstream and special schools by the Principal Educational Psychologist has resulted in revised iterations that have

ultimately concluded that the SEND Needs Funding Matrix Tool should only be applied against pupils in mainstream maintained schools and academies using the metrics within the Tool.

For pupils in special schools, a different approach has been adopted. In utilising external research and benchmarking different models, it became evident that a specific need led funding model based on the characteristics of the special school's designation, would provide a fair and equitable distribution of funding. Therefore, all children within a particular designation of a special school would attract the same level of funding. This is an approach that is followed by many local authorities around the country that enables special schools to plan staffing within a budgetary envelop.

Application of the SEND Needs Funding Matrix Tool

Given the research above, the application of the SEND Needs Funding Matrix Tool will be for mainstream maintained schools and academies only. The funding for each pupil with an EHCP will be calculated by Dudley LA working alongside settings using the SEND Needs Matrix Tool. In essence this will involve the following factors to ensure a fair, transparent, and consistent application:

- Consideration of the severity of the SEND need specified in the pupil's EHCP
- Assessing and totalling the points assigned to them by the SEND Matrix
- Allocating the funding amount that is related to that points total
- Ensuring that the documentary evidence accurately quantifies the severity of the needs generated by the pupil's SEND

The Consultation showed that some stakeholders had concerns about the application of the SEND Funding Matrix, it will therefore be necessary to ensure a clear and robust application of the Tool.

5. The proposed change in the funding arrangements clearly support the three Council Plan priorities.

The SEND reforms have increased the statutory duties of local authorities to 0-25 year olds with EHCPs and this has placed significant demand on the High Needs Budget. Dudley LA's reserves are having to support these demands, and this is not a sustainable position. Dudley LA must make savings and change the culture and expectations in SEND practice to be consciously aware that funding is finite. The change in the funding arrangements is a mechanism to support a long-term financial recovery plan that will provide a sustainable budget, as well support inclusion by providing access to mainstream settings with adequate resources to deliver equality of opportunity through reasonable adjustments.

The Written Statement of Action (WSOA) as a result of the SEND Inspection in May 2019 noted Dudley LA do not have control mechanisms in place to monitor, challenge, review and implement change. One of these key risks was with regards to the current funding arrangements for maintained schools, academies and special schools. To mitigate this risk, the development of the SEND Needs Funding

Matrix for mainstream maintained schools and academies, alongside the Need Led Funding for special school's by designation reflect the Dudley LA's priority in improving educational outcomes for all SEND pupils.

Although the primary responsibility for delivering the SEND reforms does rest with the local authorities, embedded within the Children and Families Act 2014 and SEND Code of Practice (CoP) is an expectation of collaborative partnerships and joint working across Health and Social care (children and adults). What this means is that although the High Need Funding block will finance the SEND Needs Funding Matrix, where there are assessed needs for health and social care, that these are funded appropriately through the CCG for Health and central budgets for social care (children and adults)

6. Dudley undertook a formal Consultation exercise on the proposed SEND Needs Funding Matrix from 14th January 2021 to 21st February 2021. In addition, two question and answer sessions took place on 1st and 8th February 2021 to give schools the opportunity to seek clarification on the SEND Needs Funding Matrix and its application.

There were 22 responses to the consultation. The breakdown of numbers to the question posed is as follows:

- 9 yes
- 8 No (2 responses from the same setting)
- 5 Blank
- 1 No opinion

The number of comments, questions and challenges from schools and parents/carers are very complex in nature and can be themed around the following:

- The characteristics of the matrix descriptors and points
- Who will undertake the assessment of Matrix and how will it be moderated?
- The level of funding assigned given the mainstream nature of their setting
- How will children currently on 'exceptional funding' be supported through the transition until their Annual review

There were 25 participants who joined the two question and answer sessions.

Following the conclusion of the consultation, which included representations from the question and answer sessions and from the newly constituted Parent Carer Forum (PCF), Dudley LA has reviewed and reflected on every single response, as this is a significant transformational change in funding arrangements and the emphasis is on the importance of getting this right for Dudley.

The responses raised the need to ensure that Dudley LA develops sufficient training and a detailed set of guidance, which sits alongside the SEND Needs Funding Matrix.

With regards to special schools, all seven had individual meetings to review the unique characteristics related to their designation and working place numbers. They have been presented with their proposed budget and all seven special schools have agreed that the Needs Led arrangements are appropriate for their setting.

Consequently, Dudley LA has reviewed its options for the implementation of the funding arrangements for mainstream maintained schools and academies and special schools. Given the extensive level of comments and queries from mainstream and academies, the Dudley LA has considered the following implementation options:

Option A

Do nothing – this is not considered to be viable for all the reasons indicated above regarding, practice change to have a fair, equitable and transparent funding arrangement that operates within a sustainable budget.

Option B

Implement full funding arrangements on 1st April 2021 – this is not considered viable given comments and concerns raised by mainstream schools and the PCF.

Option C

A staggered approach by phasing in the implementation – this is considered the most viable option. In this option, the phased approach would be as follows:

- **Phase 1** – Special School Budgets Needs Led funding – 1st April 2021
- **Phase 2** – Mainstream and Academies – 1st September 2021

Adopting a phased approach will enable a training programme to be delivered to all key stakeholders on the SEND Needs Funding Matrix Tool and build confidence and rigour into the system. More importantly, it will demonstrate that Dudley LA is listening, taking stock and working with settings and parents to get this significant practice change and funding arrangement with further testing undertaken to fully implement it.

If Option C is agreed, it will ensure that there is a funding arrangement that is fair, equitable and transparent by providing mainstream maintained schools and academies with funding to support more children and young people to be included in their local setting and afford the opportunity to be educated within mainstream provision.

7. The SEND Needs Funding Matrix support the inclusion of SEND children into mainstream provision as a right under the Equality Act and support schools to make reasonable adjustments through their Accessibility Plans. The UN Convention on the Rights of Persons with Disabilities (UNCPRD) was signed by the UK government in 2009. Article 24 guarantees all disabled pupils and students a right to participate in all forms of mainstream education.

Finance

8. From 1st April 2006, the Schools Budget has been funded by a direct grant; Dedicated School Grant (DSG).

Law

9. Local authorities are required to ensure that their actions and the policies that underpin them are legal, fair and proportionate, which can usually be achieved by complying with the law, i.e. the legislation and guidance issued by the Government, and any internal procedures that are relevant to that law, e.g. their constitutions.

In the case of special educational needs and its funding, the law is provided by, amongst others:

- (i) The Children and Families Act 2014;
- (ii) The SEND Code of Practice; and
- (iii) The Schools Forums (England) Regulations 2012.

The Act and the Code of Practice obliges local authorities to be open about how decisions regarding high needs funding will be made, which would include consulting stakeholders prior to making significant changes to those arrangements, and the Regulations require that they consult their Schools Forum annually in respect of these funding arrangements.

In addition, Dudley Metropolitan Borough Council's Constitution empowers:

- Cabinet Members to approve and amend policies of a significant or strategic nature, other than those that require approval by the Cabinet and the Council; and
- The Cabinet Member for Children's Services, specifically, to approve functions relating schools, Children's and Young People's Services and all other relevant legislative requirements and statutory guidance (page C30).

Therefore, as these proposals are intended to ensure and demonstrate the Council's compliance with its statutory duty to be open about the manner in which decisions regarding high needs funding are made, the Council will be entitled to implement any part of these proposals that have been approved by the Cabinet Member for Children's Services, once the Cabinet Member has consulted with the Director for Children's Services and considered the proposals and the views generated by the consultation.

Equality Impact

10. The SEND Needs Funding Matrix is intended to support SEND pupils access the right resources to enable them to achieve their potential aspirations. The impact of the proposals will protect SEND pupils with protected characteristics have opportunities to access mainstream settings.

11. The Equality Impact Screening tool has not identified any significant impacts at this time.

The comments, questions and concerns arising from the Consultation are being reviewed and addressed and if any unintended impacts emerge, an Equality Impact Assessment will be undertaken at that time.

12. The effect of the decision on children and young people should enable them to access a mainstream setting in their locality along with their friends. The SEND Needs Funding Tool will provide the appropriate resources for reasonable adjustments to be in line with a settings accessibility plan.

The Consultation on the SEND Needs Funding Matrix did not consult with children and young people and they were not directly involved in developing the proposals. However, it was their circumstances that was used to formulate the detailed descriptors within the Matrix Tool. The Participation Strategy (Voice and Influence of young people) is in its infancy and further work is being undertaken to ensure SEND voices are embedded within the Strategy.

The local Parent Carer Forum have been able to provide some feedback on the proposal.

Human Resources/Organisational Development

13. This report has no direct additional implications on human resources/organisational development

Commercial/Procurement

14. There is no impact that has been evidenced.

Health, Wellbeing and Safety

15. The proposal enables SEND pupils with the opportunity to attend their local mainstream school, stay included within their community and maintain local links with their community
16. SEND pupils are part of their community and the proposal supports them to retain local connection by attending their local settings with their peer group. Sufficiency and capacity of educational provision is an ongoing activity on place planning to ensure the right type of schools are available in the local community.
17. There are no known negative health, wellbeing and safety implications.

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