

Divisions Affected - ALL

CABINET

21 June 2022

SEND Top Up Funding for Academic Year 2022-23

Report by Corporate Director of Children's Services/Education

RECOMMENDATIONS

The Cabinet is RECOMMENDED to

- a) Agree to continue the current enhancement in Top-Up funding for Early Years settings, mainstream Primary, mainstream Secondary and Special School forecast at approximately £4.1M for academic year 2022-23.
- b) Agree an approach that timetables the 2023-24 Top-Up funding decision as part of the Councils annual budget setting process to allow schools more time for planning

Executive Summary

1. Top-Up funding is the additional funding allocated to a setting or school to support them in making the necessary special educational provision for a child or young person with an Education, Health and Care (EHC) Plan.
2. We have more children with EHC Plans moving from Year 6 to Year 7 than in previous years. In September 2022, a higher proportion of children than previously will appropriately transfer from their local mainstream Primary school to their local mainstream Secondary school.
3. In late May 2022, Cabinet approved the [Local Area SEND Strategy](#). We consulted on this strategy and received a mandate to continue to develop opportunities locally for our children and young people with SEND.
4. Top-Up funding is from the High Needs Block (HNB), part of the Dedicated Schools Grant.
5. For the past two academic years, Cabinet agreed enhancement to the amount of Top-Up funding for Early Years, Primary and Secondary schools and Special Schools.
6. The majority of children with an EHC Plan are educated in a mainstream school. A key strategic approach is, where appropriate, for children to be educated in their local community. Although not agreeing to the continued Top-

CA11

Up enhancement for a further academic year would lead to an initial decrease in pressure on the HNB, there is a risk that more mainstream schools feel under resourced to meet the needs of children and young people with an EHC Plan driving further placements in the specialist and non-maintained sector with the consequent significant additional cost.

7. This report recommends that the enhanced Top-Up arrangements of the past two years are repeated for Academic Years 2022-23 and 2023-24.

Background

8. The outcomes for children and young people with SEND in Oxfordshire are not good enough. In addition, for the past five years, spending in Oxfordshire on children and young people with SEND has exceeded the available budget.
9. The population of Oxfordshire is changing, with increasing demand and complexity of needs of some of our most vulnerable residents. It is essential that we have high-quality, locally available provision to deliver successful outcomes for children and young people with SEND in Oxfordshire.
10. To address these issues, broad reforms to SEND provision and arrangements in Oxfordshire are needed. This will mean doing things differently, changing culture and practice.
11. Following a positive response to the recent SEND public consultation, detailed plans to deliver the required changes are being developed. However, by their very nature, these changes cannot be delivered overnight.
12. In addition, on 29th March 2022 (after the local public consultation had closed), the Government published the long-awaited Green Paper, the SEND Review: Right support, right place, right time. This is open for national consultation.
13. The overall direction of travel set out in the Green Paper is consistent with proposed developments that we consulted on.
14. One of the Green Paper proposals is for a new national approach to Top Up funding. The details of this and the timeframe for implementation are unclear. Therefore, we have reconsidered making significant changes to the local arrangements at this point. However, the principle of funding following the child is consistent with the consultation in Oxfordshire, the Green Paper and this proposal to continue current arrangements in the interim.
15. Cabinet approved enhanced Top-Ups for the Academic Year 2020-21 and 2021-22. This request is for these arrangements to continue for two another academic years. This will allow for the national response to the Green Paper to be understood, for the development of the necessary system reforms for SEND and provide certainty and minimise disruption for schools and settings.
16. Schools and educational settings have indicated that they would support these interim arrangements as the funding will follow the child and will be in line with the consultation responses.

Financial Implications

17. Dedicated School Grant (DSG) to Local Authorities is allocated in blocks. There are blocks of funding for Early Years, Schools, High Needs and Central School Services. The blocks are ringfenced for 2022-23 (meaning that funding can only be spent on the services/provisions covered by the blocks, unless specific arrangements are made).
18. The Dedicated Schools Grant High Needs Block (HNB) consists of all funding or education provision for high needs learners from ages 0 to 25. The High Needs funding for Oxfordshire is £88.7m.
19. The forecast for High Needs was included in the Budget and Business Planning 2022/3 papers to Cabinet in January 2022. The High Needs deficit was reported to Cabinet as £20.3m. This deficit assumed the continuation of the Top-Ups at the same rate as last year.
20. For 2022-23, Schools Forum considered and agreed an option that delivered the National Funding Formula to schools in full and agreed a transfer from the Schools block to the High Needs Block of £0.6m to contribute to the continuation of the enhancement to High Needs Top-Up rates agreed for 2020-21.
21. The continuation of the Top-Up arrangements is expected to cost £4.1m for the Academic Year 2022-23. This is included in the forecast.
22. Oxfordshire is forecasting increasing annual deficits driven by the growth in number and complexity of the learners supported. The strategic work continues in order to ensure that services are better targeted to meet demand; despite this, it is unlikely that the deficit can be eradicated in the face of increasing numbers of children requiring support, parental preference and the dominant provider market.

Comments checked by Sarah Fogden, Finance Business Partner
Sarah.Fogden@Oxfordshire.gov.uk

Legal Implications

21. Section 45 – 53 of the School Standards and Framework Act 1998 detail the funding framework governing Schools' finance.
22. The Children and Families Act 2014 detailed extensive education reforms for children and young people with special educational needs. The Children and Families Act 2014 sets out local authority statutory obligations and is supported by a SEND Code of Practice.
23. The High Needs Funding 2022 to 2023 Operational Guidance is a guide published by the Department for Education. This guide describes how the 2022 to 2023 financial and academic year high needs funding system will work for all types of provision. It is primarily for local authorities, schools and colleges but will also be

useful to anyone with an interest in high needs funding. The 2023 to 2024 operational guidance will be published this Summer 2022.

24. Further regard is required of the Equality Act 2010 and the Public Sector Equality Duty (PSED). There being a requirement when taking a decision for due regard to the need to advance equality of opportunity for people with protected characteristics, foster good relations between such groups and eliminate unlawful discrimination. The analysis of the impact of High Needs funding requires further account to be taken of equality impact considerations.

Comments checked by Sukdave Ghuman, Head of Legal Services
sukdave.ghuman@oxfordshire.gov.uk

Equality & Inclusion Implications

24. The continued payments to schools and settings will support the education of children and young people with Special Educational Needs and Disabilities. They face significantly greater challenges in learning than their peers or have a disability which hinders their access to the teaching, curriculum and facilities typically found in mainstream educational settings.

Kevin Gordon, Corporate Director of Children's Services

Contact Officer: Hayley Good, Deputy Director of Children's Services/
Education, 07551 680562,
Hayley.Good@Oxfordshire.gov.uk

1st June 2022