

## ANNEX B: High Needs DRAFT response

Introduction

### A. What is your name?

### B. What is your email address?

This is optional, but if you enter your email address you will be able to return to edit your consultation response at any time until you submit it. You will also receive an acknowledgement email when you complete your response.

### C. Response type

Please select your role from the list below:

Local authority representative

Please select your organisation type from the list below:

Local authority

Organisation name:

Oxfordshire

Local authority area:

Oxfordshire

### D. Would you like your response to be confidential?

Information provided in response to consultations, including personal information, may be subject to publication or disclosure under the Freedom of Information Act 2000, the Data Protection Act 1998 or the Environmental Information Regulations 2004. In addition, the Education Select Committee may request to see the consultation responses as part of their role in holding the government to account. If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Yes  No

Reason for confidentiality:

## Overall approach

**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?**

Yes  No

Please explain your reasoning and any further evidence we should take into account:

There are 3 reasons why this formula does not meet the objectives. These are:

- The “lock-in” of 50% of funding on historical spend
- The lack of evidence base to support the formula
- Size of the pot/lack of funding for future growth

### Historical spend

To base 50% of the formula on historic spend is not going to achieve the aims of the reforms. Historic spend relates to 2012/13 which was derived from 2005/2006 spend, this doesn't reflect the actual needs in each authority. In addition, there has been changing legislation over that period which, for Oxfordshire, means that funding for Post 16 provision was never in the base in 2012/13 but is a requirement for High Needs funding to meet now. The use of population and proxy indicators will provide a more accurate account of a local authority rather than historic spend.

For example, Buckinghamshire, our neighbouring authority, is more affluent and smaller than Oxfordshire, yet Bucks receives £74m HN funding while Oxfordshire receives £56m. This inequity will be preserved with the proposed design of the formula, especially as it is also proposed to leave this as a cash flat amount in the formula until the formula is reviewed in 4 years.

### Lack of evidence

Use of the historic spend figure and the seemingly adhoc proportions attached to the allocation factors indicate a formula which doesn't have an evidence base. This is confirmed in the report where it is acknowledged that further research is required to investigate the challenges faced by local authorities in meeting the very high costs of children with low-incidence/ complex needs. However, given this is the area that is creating the pressures and overspends then more work was needed so that the NFF could help overcome these challenges rather than leaving 'the elephant in the room'.

### Size of the pot/lack of funding for future growth

The formula seeks to retain the current situation by protecting all Local Authorities.

Whilst this may be seen as a positive outcome, most Local Authorities have substantial pressure on their High Needs blocks. Any new High Needs formula must be sufficient to support those children in the system already. Funding must be able to meet demand in future years by increasing to meet both the demographic growth in children requiring support from High Needs and parental expectations.

The ring fencing of the blocks will exacerbate the pressure on High Needs. The short term option of moving funding between the School and High Needs blocks is unlikely to be enacted as Schools face real pressures.

## Formula Factors

We are proposing a formula comprising a number of formula factors with different values and weightings.

We ask respondents to bear in mind with each question on this page 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.

## 2. Do you agree with the following proposals?

|   | Allocate a higher proportion | The proportion is about right | Allocate a lower proportion |
|---|------------------------------|-------------------------------|-----------------------------|
| Historic spend factor - To allocate to each local authority a sum equal to 50% of its planned spending baseline |                              |                               |                             |

Please explain your reasoning and any further evidence we should take into account:

As above. The 50% weighting for historic spend is too high, more funding should be allocated on the basis of population (rather than historic spend) to achieve the aims of fairness. If stability is a key aim, then this may be achieved by the introduction of transitional arrangements.

|  | Allocate a higher amount | This is about the right amount | Allocate a lower amount |
|--|--------------------------|--------------------------------|-------------------------|
| Basic entitlement - To allocate to each local authority £4,000 per pupil |                          |                                |                         |

Please explain your reasoning and any further evidence we should take into account:

OCC agrees £4k as a proxy as this means that all pupils attract basic funding whatever their setting.

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

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Population – 50%

Please explain your reasoning and any further evidence we should take into account:

Overall, it is not clear what the research base and evidence is for the weightings. The methodology of the formula is therefore difficult to comment on.

We suggest that population should be higher than 50% and that the high needs block should increase or decrease in relation to population changes.

There are some comments below for the children in bad health and DLA factors.

Deprivation measures are duplicated across the Schools block and High Needs block, has any modelling been undertaken to understand the joint impact of this?

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Free school meals (FSM) eligibility – 10%

Please explain your reasoning and any further evidence we should take into account:

See answer above

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Income deprivation affecting children index (IDACI) – 10%

Please explain your reasoning and any further evidence we should take into account:

See answer above

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Key stage 2 low attainment – 7.5%

Please explain your reasoning and any further evidence we should take into account:

See answer above

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Key stage 4 low attainment – 7.5%

Please explain your reasoning and any further evidence we should take into account:

See answer above

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Children in bad health – 7.5%

Please explain your reasoning and any further evidence we should take into account:

The children in bad health and DLA seem high, and the validity of the data is questionable. The children with bad health is as declared on the 2011 census, therefore subjective and out of date, often children with very similar needs receive significantly different amounts of DLA. If DLA is going to be used then it is essential that the data is provided to LAs, rather than the complex, bureaucratic methodology suggested in the EY consultation.

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Disability living allowance (DLA) – 7.5%

**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 the consultation document.**

Yes  No

Please explain your reasoning and any further evidence we should take into account:

The proposal that there should be no reduction for any LA indicates that there has been insufficient funding, however there are significant outliers and these proposals will not address this imbalance before the next review in four years.

**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?**

Yes  No

Please explain your reasoning and any further evidence we should take into account:

No. The funding floor is based on planned spend but spend has been restricted by historic budgets. Historic budgets are therefore not an accurate reflection of the needs in a local area.

Whilst there is an opposite argument that it is difficult to reduce spend as funding is following children, this view would result in expenditure being fixed for some time.

Oxfordshire view is that funding should move towards a fair funding formula now, so that funding imbalances are corrected now and that Local Authorities can plan for the funding they will have in the future. This would align with the idea of allocating funding for High Need reviews in 2017-18.

## Local budget flexibility

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

Yes  No

Please explain your reasoning and any further evidence we should take into account:

This will ensure that continued collective (schools and LA) responsibility and accountability is continued in supporting children with high needs.

Realistically, given the funding issues in the Schools block, funding transfer is unlikely to actually happen.

### 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?

We are developing our proposals on the level of flexibility to allow in the longer term. We will consult fully on our proposals at a later stage, but would welcome any initial comments now.

If it is agreed in principle that there should be flexibility, then give local areas discretion on the level of flexibility. It should not be time limited.

## Further considerations

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

Capital funding should also be linked to the population and the proxy indicators used for the HNFF. Capital investment requires long term, strategic planning. The approach should follow the same underpinning principles: support opportunities, be fair, be efficient, get funding to the front line, be transparent, be simple, be predictable. Although funding was announced on March 6<sup>th</sup>, it is not clear on what basis, the funding has been allocated.

Spend on High Needs is driven, in part, by parental expectation and increasing charges made by independent, and some profit making, organisations. Local Authorities have little control over the raised expectations. The increasing number of tribunals and poor LA success rate, highlights these challenges. How can a formula reflect this?

The question below refers to the equalities impact assessment published with the consultation.

**9. Is there any evidence relating to the 8 protected characteristics identified in the Equality Act 2010 that is not included in the equalities impact assessment and that we should take into account?**

More work is needed to take account of the 19 to 25 population to ensure that funding for each local authority is a more accurate reflection of need.

**Age**

The cost of providing additional support for pupils and students with SEN is affected by their age.

There are different statutory duties in the Code of Practice that have cost implications (9.173 and 9.174).

The local authority can require the following types of school to convene and hold the meeting on the local authority's behalf: maintained schools; maintained nursery schools; academy schools; alternative provision academies; pupil referral units; non-maintained special schools; independent educational institutions approved under Section 41 of the Children and Families Act 2014.

Local authorities can request (but not require) that the early years setting, further education college or other post-16 institution convene and hold the meeting on their behalf. There may be a requirement on the post-16 institution to do so as part of the contractual arrangements agreed when the local authority commissioned and funded the placement.

This difference is creating funding tensions, for example some colleges are seeking £300 per review meeting. Either the inequity should be removed from the Code of Practice or increase the flat rate for settings and FE to take account of the costs incurred and charged to LAs.