

SCT High Needs Deficit Survey

October – November 2020

Introduction

The issue of high needs spending and a growing high needs deficit for local authorities has been around for several years, since the introduction of new measures in the Children’s and Families Act 2014. The DfE still have no apparent strategy to address the growing deficits and recently introduced legislation to stop local authorities contributing to the SEN budgets, in effect allowing a negative balance to be carried forward. The 2020 Spending Review also included no additional funding to address the shortfall.

For SCT members this problem is growing in significance as high needs deficits increase and auditors are examining negative DSG reserves on council’s books. Whilst, at the same time, general reserves are also under pressure.

The SCT Technical Support Team circulated a survey on member’s high needs deficits, other high needs spending areas and further qualitative questions on various elements of DfE and Government policy.

At the time of writing this summary 28 out of the 39 SCT members had responded in full to the survey. A further 4 members responded to an earlier version of the survey – and have been asked to complete the new version. Taken together this brings the response rate to 32 out of 39 (representing 82% of members and 87% of the overall high needs DSG)

This report will be updated should an improved response rates be achieved.

Some extrapolation has been carried out (based on the proportion of high needs DSG, rather than number of responses) but this is fraught with the possibility of errors. I have had to assume that those who have not responded have the same issues with overspends as those who have, but the opposite may be true and those who are not responding are choosing to do so because, for their authority, SEN overspends is not a big issue.

Overspending

The following table summarises the respondents’ High Needs DSG, High Needs Spending, any between-block transfers and then gives a net and cumulative deficit figure. Several authorities reported netting off high needs overspends against previously held DSG reserves/underspends, However, this survey examines the pressure specifically on high needs budgets and the netting off against other DSG reserves has not been explored.

	2018-19 £m	2019-20 £m	2020-21 £m
High Needs DSG	£2,168	£2,215	£2,489
High Needs Spend	£2,286	£2,487	£2,715
Between-block transfers	£27.6	£51.0	£23.6
In-Year deficit	-£90.1	-£221.2	-£202.8
Cumulative Deficit	-£103.2	-£324.4	-£527.2

As the table shows, by the end of this financial year the cumulative high need deficit for the 32 responses is £527m. **Extrapolating this to all SCT members results in an estimated cumulative deficit for all SCT members of over £600m by the end of 2020-21.**

Only 23 respondents were able to give figures forecasting the 2021-22 and only 19 forecasting the 2022-23 figures. These have also been extrapolated but, given the lower response rate, these results should be seen as less reliable.

	2021-22 £m	2022-23 £m
High Needs DSG	£1,950	£1,806
High Needs Spend	£2,030	£1,898
Between-block transfers	£18.1	£15.1
In-Year deficit	-£92.6	-£76.2
Cumulative Deficit (23 and 19 responses, respectively)	-£496.2	-£504.4
Extrapolated Cumulative Deficit	-£811.1	-£928.5

Pupil Numbers

Again, there was a mixed response in terms of how many years respondents were able to provide figures for. Those who were able to provide figures between 2018-19 and 2020-21 indicated that the **number of children with an Education Healthcare Plan (EHCP) increased by 25% in just 2 years.** In comparison, total pupil numbers grew by less than 1% in the same period.

Those who were able to predict their pupils with an EHCP into 2022-23 were forecasting a **growth of 40% when compared to 2018-19.**

Pupils with an EHCP represent a relatively small section of total pupil numbers – roughly 4.5% in 2018-19 rising to nearer 6% by 2022-23. However, it is the increase *in numbers* that is leading to rising costs.

Other areas of High Need Spending

This question asked for details of spending on SEN transport costs and administration, assessment, co-ordination and monitoring costs (as reported in S251). Again, there was a mixed response in terms of how many years respondents were able to provide figures for. However, results have been extrapolated to obtain estimates for the Society as a whole.

Extrapolated Costs	2018-19 £m	2019-20 £m	2020-21 £m	2021-22 £m	2022-23 £m
SEN Transport Costs	£ 402	£ 455	£ 474	£ 521	£ 548
SEN administration, assessment, co-ordination and monitoring costs	£ 82.0	£ 95.6	£ 96.9	£ 90.6	£ 92.4

SEN transport costs have risen by 25% between 2018-19 and 2020-21 and are forecast to rise a further 15% in the next 2 years.

SEN administration, assessment, co-ordinating and monitoring costs have also risen – by 34% between 2018-19 and 2020-21. The extrapolated forecast shows costs falling in 2021-22 and 2022-23, however these figures are based on a handful of responses and extrapolation is likely to be unreliable.

Have you ever approached your Schools Forum to request a transfer between Blocks?

Of the 32 responses – 27 *had* asked their schools forum for a transfer and 5 had not. Of those who had asked, 19 were successful, 7 were not and one is in the process of asking.

Further analysis of the responses showed a mixed picture – not just between authorities but also between years. On some occasions the School's Forums (SF) had approved transfers in order to offset the deficit whilst others would only approve funding transfers that resulted in increased SEN spending. Some SFs will only approve a transfer if there is a surplus once all the National Funding Formula factors have been applied. The general trend appears to be that in recent years SF are less likely to approve transfers.

10 responses reported approaching the secretary of state and 9 said they had not. The reported incidences of approaching the Secretary of State (SoS) for a transfer indicate that local authorities are successful roughly 50% of the time. Recent rejections by the SoS cited the increase in funding for SEN as being sufficient to fund pressures.

What do you think the DfE could do to help eliminate any deficit?

Almost all responses to this question suggested that the quantum of funding needed to be increased – not just to cover the deficit that has built up but also to keep pace with rising demand. There were many responses highlighting that current and projected deficits cannot be recovered from within the DSG, or by Councils from local authority funding and that the Department must take action fund/write off the deficits.

There were also lots of mentions of the policy around SEN needing to change as well as the funding formula, which relies heavily on past spending.

The following bullet points summarise some of the most common responses; either as funding-related or policy-related.

Funding Changes

- Additional funding (2018-19 onwards) is welcome but has not recognised the historic funding deficit as a result of underfunding in the years since the SEND reforms in 2014. Earlier funding could have resulted in smaller, more manageable deficits. Deficits are now so large that it seems highly unlikely that a recovery is achievable, particularly as these costs are still rising.
- Ongoing funding that recognises the policy decisions and implications of the 2014 SEND legislation.
- A review of the High Needs formula would be good but that would purely redistribute a pot of funding that is currently insufficient.
- Consider writing off deficits, although some suggestion that this must be fair to those authorities that have managed their high needs budgets to avoid deficits
- Funding must support inclusion, early identification of need and development of appropriate provision across mainstream and specialist settings.
- Acceleration of “levelling up”
- The formula needs to recognise the huge increase in demand as well as the rising costs of providing support. For example; LAs are also required to fund specialist High Needs places at £10,000 however only £4,000 per pupil in a specialist place is received through the formula.
- Challenges faced by rural authorities are not addressed in the funding formula
- Review the use of population in the formula when demand for EHCPs is outstripping population growth.

- Funding must also recognise the extension of the age range to 0-25-year olds, who are eligible for support if they have an EHCP.
- Amend the formula for calculating high needs DSG so that more funding is allocated according to the indicators of need and less funding is allocated according to historic spend.
- Greater flexibilities for LA in movement of funding between. Seeking schools and Schools Forum decisions on transfers below 0.5% or SoS above 0.5% are limiting and restricts LAs from making objective LA wide decisions.
- Comprehensive 'capital' investment is needed to increase the places in special schools which will also be more cost effective, in terms of placements and school transport costs.
- Ringfence school's notional SEND budget (£6k) to ensure that it can only be spent on SEN support / provision for individual pupils. This 'notional SEN' amount has not been determined through the NFF as anticipated, which is now causing costs to be pushed to the High Needs block as a result

Policy Changes

- The increase in EHCP numbers over the previous years has been the significant driver in these costs so an ability to manage the level of demand is also key.
- Financial recognition and incentives which promote preventative approaches, graduated response and inclusive practice in mainstream schools and allow children with higher levels of need to remain in their locality mainstream school.
- Consider making schools financially responsible for a temporary period after a permanent exclusion which allows interim provision to be put in place and meets the full cost.
- Consider providing a challenging body that can overturn exclusion decisions.
- Expectation management is needed – parents of children and young people with EHCPs expect high cost specialist education provision and appealed cases often are found in favour of the parent.
- Issue new guidance to SEN tribunals so that the cost of provision is made a key factor in tribunal decisions.
- All provision to be linked to an education provider. Work with the tribunal system to avoid decisions which result in an EOTAS (Education Other Than at School) provision This is increasingly requested by parents and agreed at tribunals and directly effects the HNB as the provision must be overseen by a 'body', such as the LA, rather than by a provider.
- Capping of Independent school fees and review the parental option of school choices to prevent High cost places being the preferred choice even though Mainstream Special schools can meet the need at a fraction of the cost.

The DfE recently introduced legislation to stop local authorities contributing to the SEN budgets, in effect allowing a negative balance to be carried forward. Have you found this helpful?

Of the 30 responses to this question it was split almost 50:50 with 16 saying they found it helpful, whilst 14 did not.

Have you taken any further action to mitigate the negative reserve?

Of the 32 responses 30, indicated that they were in a deficit position regarding their High Needs Spending, but at least 4 reported not being in a net deficit position. Most responses indicated that they were not making any specific accounting actions with regard to the negative balances and most also gave examples of where and how they were looking at making savings to try and reduce overspends – even those not already in a deficit position.

One response highlighted that they were using capital funding to build a 75-place special school but that even that would not meet demand.

Three responses (Leicestershire, Oxfordshire and Surrey) all indicated that they *are* making a provision in their accounts – with one saying that it would be “*financially irresponsible not to have a discernible recovery plan in place*” and another response saying that it would be “*reckless*” to continue to carry a negative reserve. A 4th response didn’t confirm that they had set aside a reserve but indicated that was what their auditors were expecting.

Do you agree with this statement: "The financial position of the high needs block of the DSG will have major negative implications for the financial resilience of this authority by March 2022"?

Of the 30 responses, 18 (60%) said they either “agreed” or “strongly agreed” with the statement. 6 “neither agreed nor disagreed” and a further 6 “disagreed”.

Do you agree with this statement: "Recent changes announced by the DfE such as allowing the carry forward of deficits have done little to address the underlying causes of financial pressures in the high needs block"?

Of the 31 responses, nearly all “agreed” or “strongly agreed” with the statement with just one dissenting voice – who “strongly disagreed”.

The DfE have issued a template for local authorities to report DSG balances. Do you find this template useful?

Of the 26 responses to this question 16 said that yes, they do find it helpful whilst 10 disagreed and did not find it helpful.

There appears to be some confusion about whether the use of the template is mandatory or not with some responses highlighting that it forms part of the grant conditions. In some cases, it was described as not being mandatory because the authority is not in a deficit position.

Of those that did not plan to use the template, the reasons cited were its size and complexity, problems with obtaining data in the format required and general errors in the spreadsheet that need to be corrected by the DfE. One response described it as “*another unfunded burden*”.

Of those planning to use the template, some recognised its shortcomings, but the overall message was that it might be useful (or at least elements of it) and that there was some merit to everyone using the same template. Other complaints were that it didn’t show the granularity needed for monitoring/challenge and that without certainty of future funding it was hard to use it to plan.