



**Banded Funding for SEND & EHCP:**

<b>Cabinet Date</b>	24 March 2021
<b>Cabinet Member</b>	<a href="#">Cllr Richard Boyles</a> Deputy Leader of the Council and Cabinet Member for Children's Safeguarding and Early Years  <a href="#">Cllr Patrick Molyneux</a> Cabinet Member for Economy, Education and Skills
<b>Key Decision</b>	Yes
<b>Purpose of Report</b>	The purpose of this report is to outline proposed changes to the way in which we fund support for children with additional needs, including Special Educational Needs and Disabilities (SEND). The report explains how we propose to adjust funding models to support early intervention and reduce pressures on statutory processes.
<b>Recommendations</b>	<ol style="list-style-type: none"><li>1. That Cabinet approves the proposal for implementation of Banded Funding, and;</li><li>2. That implementation of Banded Funding is applied to all new cases.</li><li>3. That implementation of Banded Funding is applied to existing EHCP cases when they are evaluated at the annual review, and migrate to the new model.</li></ol>
<b>Reasons for recommendations</b>	The proposals and recommendations in this report are in response to the high needs consultation and the subsequent high needs and joint additional needs strategies. These strategies emphasise the need for services and support to focus on early intervention to optimise the learning and development outcomes for children and young people, and improve their life long opportunities. To enable the effectiveness of early intervention, funding models need to be unlocked from the existing statutory process, in this case the Education Health and Care Plan (EHCP) and be made available earlier when a child's need arises.
<b>Resource Implications</b>	<p>Funding to support children with additional needs is delivered through the Dedicated Schools Grant (DSG). The total DSG budget for 2021/22 is £524.114m, of which £74.622m is allocated to High Needs. DSG funded services are forecast to be over-spent by £13.588 million in 2020/21, which includes the deficit carry forward of £8.442 million and the deficit budget which was set for High Needs of £5.449 million.</p> <p>In the short term the new model is intended to be cost neutral, with longer term savings delivered to the DSG, through reduction of high cost placements, through earlier intervention.</p>
<b>Background Documents</b>	Annex A Banded Funding Summary report Annex B Banded Funding Equality Impact Assessment
<b>Statutory Authority</b>	

<b>Divisional Councillor(s)</b>	
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<b>Timeline</b>	Implementation to start from May 2021.

## **1. Background and context**

- 1.1. The number of children who need help and support because they have learning difficulties or they struggle to cope with life at school, continues to grow. With Covid-19 bringing more uncertainty to many, this need is expected to be even greater going forward. In some cases, children only get the help they need once they have been excluded from school, are too anxious to attend or have had to wait for a formal assessment of their special educational needs.
- 1.2. At the moment, the education system is not working well for some children with 'additional needs'. The number of children having to rely on an Education, Health and Care Plan (EHCP) to get support in school is increasing rapidly and the progress of children with additional needs is not as good as that of other children. Too many children are being excluded from school. These issues are in common with other local authorities across the country.
- 1.3. In addition to these concerns, like other local authorities, our High Needs budget is overspending but there are changes we can make that will improve the lives of children with additional needs and will use our funding more effectively. This is not about spending less, but spending it in a better way for children.
- 1.4. With the growing number of young people needing help, the council knew they needed to re-think the way they did things. So, in June 2018, children and their families, as well as schools and other professionals, were asked for their views on a number of proposals to change the way services support children with additional needs. The feedback from this consultation helped to inform the [High Needs Strategy](#) which was approved by council's Cabinet in March 2019. This set out actions for the council to take which are underpinned by the broader commitment of agencies in the county to provide the right support, in the right place, at the right time for children and young people through the [Joint Additional Needs Strategy](#) including SEND (2018-21).
- 1.5. To deliver the above strategies the JAN & High Needs Transformation Programme (JHNTTP) was established in February 2020. The programme is set up to place the child at the centre by transforming our service design and approach to ensure early interventions that are more collaborative with joined up assessments, sourcing and development plans to enable every child to optimise their full learning potential. The intention is to raise aspirations and improve outcomes for children and young people with additional needs including SEND by facilitating early and inclusive intervention through multiagency collaboration to ensure we have child centred approaches and solutions.

## **2. Introduction**

- 2.1. This report asks Cabinet to support proposed changes to the way in which High Needs funding is used to support children with additional needs.
- 2.2. The proposal sets out changes to the funding model that will ensure funding is working to promote and support early intervention in order to maximise impact for children and young people.
- 2.3. The proposed changes will also simplify funding models into a common banding system which will operate for all education providers, improving both the consistency and efficiency of funding.
- 2.4. This proposal is an output of multiagency work undertaken as part of the JAN & High Needs Transformation Programme and is a critical step in ensuring that we are able to deliver the best outcomes for children and young people with additional needs.

### **3. How funding currently operates**

- 3.1. Funding for children with additional needs is delivered to providers through the Dedicated Schools Grant (DSG) via both the schools block and the high needs block. Gloucestershire's DSG allocation for 2021/22 is £524,111m, of which £74.622m is allocated to High Needs.
- 3.2. Education providers receive funding in two discrete elements:
  - Place funding which is a mechanism to support the fixed costs of provision.
  - Top-up funding which is a variable element, dependent on the level of additional support a child or young person needs.

#### ***Funding SEND in the Mainstream***

- 3.3. The schools block provides mainstream schools with 'Notional SEND' funding through the National Funding Formula (NFF). The NFF is set centrally by the Department for Education (DfE) and the Education Skills Funding Agency (ESFA). This funding creates the Notional SEND budget and should be used to meet low level SEND needs and the first £6,000 of an EHCP. Alongside the Age Weighted Pupil Unit (AWPU), which is also part of the NFF, this £6,000, provides the place funding (fixed cost) for mainstream schools.
- 3.4. The high needs block funds the mainstream top-up (variable cost) which when added to the notional SEND funding will meet the full cost of an EHCPs for a mainstream school. These top-ups are individually costed and resourced as part of the EHCP.

#### ***Funding SEND in specialist provision***

- 3.5. Places and the top-up funding for all specialist provision and children and young people with additional needs that attend Early Years or Post-16 provision are funded through the high needs block.
- 3.6. Top-up funding for specialist and post-16 providers is not individually costed and resourced like the mainstream, but provided through a banding system.

#### ***How funding is currently accessed***

- 3.7. Funding through high needs is currently only available to children and young people with a resourced Education Health and Care Plan (EHCP). This means that mainstream schools that require support for a child or young person from high needs funding must start the 20 week statutory EHCP assessment process.
- 3.8. Since the introduction of the EHCP as part of the changes to the SEND code of practice, Gloucestershire has seen a 57.1%\* increase in EHCPs, this is broadly in line with the increase nationally of 64.5%. As at 1st January 2021, there were 4,322 children and young people aged 0-25 with an EHCP (73.2% increase since 2014\*\*). This rise is creating significant pressure on the statutory services and the supporting agencies.
  - \*2,496 CYP with an EHCP maintained by Gloucestershire County Council in January 2014 compared to 3,922 in January 2020. This shows an increase of 400 EHCP cases in 2020 alone. The latest published figures are for January 2020 (source: *Education, health and care plans: England 2020*, <https://www.gov.uk/government/statistics/education-health-and-care-plans-england-2020>)
  - \*\*The national data is not available at the time of this report as this will be published in May 2021.

- 3.9. The graduated pathway is the local model that ensures a graduated response is taken to support children's needs. Varying levels of additional needs should be supported by different elements of the pathway (My Plan, MyPlan+, EHCP). So as needs escalate or reduce you would expect children and young people to move up and down this pathway.
- 3.10. The current funding model is only associated to the EHCP (at the top end of the pathway) and does not provide support for the graduated response. This is providing a perverse incentive and often unnecessary entrance to the statutory process (EHCP).

### **Conclusions**

3.11. In summary our analysis of the existing model raised two key concerns:

- Funding is locked up in the statutory process, which does not support early intervention, is costly and inefficient.
- The approach to providing top-up funding is inconsistent and unnecessarily complex, creating confusion and inefficiencies.

## **4. Developing a solution**

4.1. The Banded Funding workstream was setup as part of the JHNTF. A proposal was developed and an engagement pack survey created for members of the public and professionals to respond to, details of which can be found in Annex A.

4.2. The engagement pack sought feedback on the design and development of a common banding system that:

- Enables funding through the graduated pathway (MyPlan and MyPlan+) making it easier for settings to access funding at the right time and with without directing them immediately to the statutory process.
- Reduces complexity by providing all education settings with a common funding methodology (banded funding), linked to a set of clear descriptors of need.

4.3. The [Banded Funding Engagement Pack 2020](#) survey was live from October 2020 to January 2021. This included the banding criteria and set of descriptors outlining the type and level of support that would be provided based on the assessment carried out on the child/young person by a professional/specialist. The funding model correlates to the banding criteria to ensure full alignment.

4.4. Stakeholders were engaged to ensure that people had the opportunity to comment, feed back and/or work collaboratively with us on the banding. This is detailed in Annex A.

## **5. Options**

5.1. Following the engagement exercise we are now seeking agreement from Cabinet on how to proceed. As such we have outlined below two options for Cabinet to consider.

### ***Option 1 - Implementation of the Banded Funding (SEND and EHCP) proposal***

5.2. To implement the common Banded Funding model across the education system in Gloucestershire from September 2021. The key features of this new model are:

- All education providers will operate using the same banded funding model linked to a clear set of banding criteria.

- Funding will not be linked to the statutory process, but to the needs of the child identified by a clear set of descriptors. If a child or young person's needs can be met by funding a MyPlan+ we will be able to do so.

### ***Funding process***

- 5.3. Once established the funding distribution process for the new proposal would be:
- For non-statutory funding (children without EHCPs), payments will be issued to the setting within 5 working days of the decision. The setting should already be providing support to a child and that support would then be enhanced by the additional funding from GCC.
  - For children/young people with an EHCP, funding will be made available to the named setting as soon as the EHCP is finalised.

### ***Benefits of banding***

- 5.4. Funding can be accessed at the right time to meet high level, short term needs through a non-statutory process
- 5.5. The banding system provides consistency across all schools and settings with the exception of independent special schools and colleges. This means that no matter where a child learns, they will get the support they need.
- Provides opportunities for settings to offer more flexible, creative, meaningful and relevant support options in a timely manner. Support can be tailored to an individual child's needs or to a group of children with similar needs.
  - Offers a transparent methodology to families, schools and practitioners.

### ***Review of Banded Funding***

- 5.6. It is proposed that following implementation, the scheme would be reviewed annually to ensure relevance to the changing needs of service users and any legislative changes.

### ***Option 2 – Continue with the existing funding model***

- 5.7. Funding is currently only available to children/young people with a resourced EHCP. The level of funding may differ dependent on the type of setting attended. In Early Years settings there is some limited non-statutory funding available for short term interventions.
- 5.8. This means we operate a system that drives schools and families to the statutory process. . The impact of this approach is creating a significant rise in statutory plans, which create delays in providing the right support at the right time, which in turn allows needs to escalate requiring more costly and time intensive support.
- 5.9. In addition, we retain the status quo of being institution centred instead of child centred in the provision of these services.

## **6. Risks**

- 6.1. The risk of doing nothing is that we continue to provide funded support at statutory levels and not when the child's need is first identified. This in turn means needs can become more complex if the need(s) is not addressed at the right time and the child in turn not having the opportunity to get the best from their learning. The mitigation for this risk is the implementation of option 1 where we can provide timely and relevant support – the right support at the right time.

## **7. Financial implications**

- 7.1. There is a risk of increased casework and management costs during the transition phase whilst two models are operating concurrently. We are mitigating this risk by reviewing and improving our casework processes. A review has been undertaken by an external provider, identifying a number of areas where efficiencies can be made including where digital solutions can provide both short term and long term benefits. We are working to implement these changes alongside the launch of the new model to mitigate the risk of increased casework costs.
- 7.2. The cost of support for children with additional needs will decrease over time through earlier intervention and a reduction in the number of children with complex needs, particularly those with a social, emotional and mental health diagnosis.

## **8. Legal Implications**

- 8.1. The support for children and young people with Special Educational Needs and Disabilities is covered under the Children and Families Act 2014 and SEN Code of Practice. The starting point for the legal position is the right to request an Education Health and Care needs assessment.
- 8.2. If a request is made for assessment the local authority has a legal responsibility to determine whether it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan. In section 26(8) of the Children's and Families Act 2014 it states:

*(8)The local authority must secure an EHC needs assessment for the child or young person if, after having regard to any views expressed and evidence submitted under subsection (7), the authority is of the opinion that:*

- a) the child or young person has or may have special educational needs, and*
- b) it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan.*

- 8.3. The approach we have recommended in this report, will not in anyway affect the legal rights of parents or education providers to request an assessment for an education health and care plan. So, if a parent/carer or education provider feels that statutory support is required and as such, wish to request an assessment for an education health and care plan, they are still able to do so. However, the new model will provide them with an alternative path for non-statutory support, if that suits the needs of the child or young person better.

## **9. Climate change implications**

- 9.1. Banded Funding proposal potentially reduces the need for specialist and out of county placements, in turn reducing long distance commuter/ transport activity. Early Identification and provision for children with additional needs keeps children in local schools thereby reducing impact on the environment due to decreasing transport requirements.

## **10. Equality implications**

- 10.1. An Equalities Impact Assessment has been completed for this proposal.
- 10.2. Cabinet Members should read and consider the Equalities Impact Assessment in order to satisfy themselves as decision makers that due regard has been given.
- 10.3. The 2021 EIA assessment for Banded Funding concludes that overall there are positive benefits for children and young people in enabling earlier intervention to improve their learning outcomes and life opportunities.
- 10.4. In January 2019 the High Needs consultation cabinet paper was accompanied by a Due Regard Statement (there were no follow up actions).

## **11. Data Protection Impact Assessment (DPIA) implications**

- 11.1. There are no DPIA implications from the Banded Funding proposal.

## **12. Social value implications**

- 12.1. Banded Funding proposal supports children/young people to remain in education and reduce the number Not In Education, Employment or Training (NEET).
- 12.2. Educational Inclusion improves life chances, especially as those educated at an Alternative Provision School (APS) are more likely to be NEET. The [Timpson Review of exclusions](#) shows that excluded children have worse trajectories in the long term. Over one third of children who completed Key Stage 4 in an AP go on to be NEET. Exclusion is an indicator for being at higher risk of becoming a victim or perpetrator of crime with 13 – 23% of young offenders sentenced to less than 12 months in custody, in 2014, had been permanently excluded from school prior to their sentence date.
- 12.3. Reduction in permanent exclusions improves chances for those who are economically disadvantaged. The number of children eligible for FSM is used as an indicator for economic disadvantage – and those who receive FSM are around four times more likely to be excluded permanently or for a fixed period than children who are not eligible for FSM.
- 12.4. Banded Funding proposal of earlier access to funded intervention positively impacts all CYP, and for those with social care interaction (in particular those with PEX) this impact is likely to be greater. This in turn would lead to improved academic and wellbeing outcomes, and better life chances.
- 12.5. In addition, the proposal enables schools to procure from more diverse range of providers to select the most suitable intervention for the child, in turn providing the child with positive and diverse learning experiences.

## **13. Consultation feedback**

- 13.1. In 2018 a SEND high needs public consultation 'Approval for consultation' was carried out to better understand the root causes and challenges for families of children with SEND. The feedback from this informed the [Joint Additional Needs Strategy](#) and [High Needs Strategy](#)
- 13.2. During September 2020 to January 2021 the [Banded Funding Engagement Pack 2020](#) was developed and feedback sought from professionals, practitioners and families via a link on the GCC website and JHNTF newsletter. Annex A Banded Funding Summary report sets out the engagement approach that was carried out.

#### **14. Officer recommendations**

14.1. To agree Option 1 for the implementation of Banded Funding (SEN and EHCP) model.

#### **15. Performance Management/Follow-up**

15.1. A Baseline report for data correlating to the JAN & High Needs Transformation Programme has been produced and date-stamped to September 2020. This will form the reference for year-on-year comparison on performance.

15.2. The programme will also undergo evaluation both qualitative and cost benefit analysis to assess the return of investment of the overall programme/ projects, including Banded Funding.

15.3. There is a communications plan for JHNTTP, a public [JHNTTP web page](#) and a newsletter that people can subscribe to [Newsletter sign up](#) subscribe. In addition there is a series of webinars that anyone can register to attend to ask questions and find out more about the transformation programme.

#### **Annex A**

Banded Funding Summary report

#### **Annex B**

Banded Funding Equality Impact Assessment