

22 March 2017

By email to: [HighNeedsFundingReform.CONULTATION@education.gov.uk](mailto:HighNeedsFundingReform.CONULTATION@education.gov.uk)

## **ADCS response to the stage two consultation on the high needs national funding formula**

1. The Association of Directors of Children's Services Ltd (ADCS) welcomes the opportunity to respond to the stage two consultation on reforms to high needs funding. ADCS is the professional association for directors of children's services (DCS) and their senior management teams. Under the provisions of the Children Act 2004, the DCS is the chief officer responsible for the discharge of local authority functions with regard to education and children's social care and champion for children across wider children's services.
2. ADCS welcomes the announcement that no local authority (LA) will lose funding as a result of the proposed reforms to high needs funding. However, it must be acknowledged that the number of children with additional support needs and/or education, health and care (EHC) plans is increasing. In addition, the high needs block will experience the same additional cost pressures as the schools block: inflationary pressures on non-staff spending, apprenticeship levy, annual pay award and salary increases, teachers' pension scheme and national insurance.
3. ADCS members are concerned that the quantum of funding allocated to high needs will not meet current and future demand. Not only is demand for high needs support continuing to increase, the level of need is becoming increasingly complex in nature. It is recognised that DfE have allocated a sum of money to support LAs to carry out strategic reviews of their SEND provision, however, a more fundamental needs analysis is required to develop a detailed understanding of needs and the level of funding required to meet these. This must be supported by a commitment for longer term funding, spanning more than a parliamentary term.
4. DfE have committed £200m capital funding to support the expansion of special education needs provision and the creation of new special schools. Although this resource is much needed, there are implications on revenue funding which do not seem to be recognised within the proposals.
5. There is a disjoint in SEND policy and the proposed high needs funding formula; LAs have the responsibility to make provision to meet the needs of children and young people with SEND yet the funding for this is dispersed. The relationship between the different funding blocks is critical; LAs need flexibility to move money between blocks to enable them to meet their statutory responsibilities. It is reassuring that the government has recognised this, reconsidered the approach to ring fencing and will allow some flexibility in the transfer of funding once the formula is established.

**The Association of Directors of Children's Services Ltd**  
Piccadilly House, 49 Piccadilly, Manchester, M1 2AP  
Tel: 0161 826 9484 Email: [info@adcs.org.uk](mailto:info@adcs.org.uk) Website: [www.adcs.org.uk](http://www.adcs.org.uk)

Although this flexibility is welcome, due to reducing resources, schools may be reluctant to agree the pooling of funding to support those schools who are more inclusive. This may be a particular issue for schools with a below average number of students with additional needs, such as grammar schools. With limited resources, both mainstream and special schools are likely to become less inclusive due to financial pressures. This unintended consequence will drive up the demand for more specialist education services as children with low level SEND who were previously attending mainstream schools are squeezed out. Indeed, this could be replicated across the system as children are diverted into more specialist provision at much greater cost.

6. The consultation does not offer any guidance to LAs who may experience significant pressure on the high needs block due to the refusal of schools to transfer an element of their funding to high needs. Under the current funding system where transfer between blocks is much more straightforward, LAs are often met with challenge by schools on decisions regarding this. There is a danger that under the proposed system, mainstream schools come to see themselves as divorced from pressures on the high needs block, with the perverse incentive whereby decisions to exclude or push for specialist provision have no impact on their funding unless all schools agree to contribute to high needs. What will happen if schools do not agree to transfer funding and as a result, LAs fall foul of their duty to make provision for children with additional needs? In the context of a hard national funding formula for schools, LAs must be given a lever to counteract any tendency by mainstream schools to move away from an inclusive education system. A revamped schools forum, specifically focused on the investment needed to support the most vulnerable, would help to achieve this. If schools do not agree to transfer funds in light of a reasonable case supported by evidence, there must be an established national route to recourse.
7. ADCS members continue to have concerns with regard to the proxy measures proposed and how well they reflect LAs SEND responsibilities in relation to the 0-25 population. The lack of a low prior attainment factor for EYFS or key stage 1 means the formula does not acknowledge the additional support many younger children with learning disabilities receive. At the other end of the age spectrum, post 16 students are not reflected in the factors for population, free school meals, disability living allowance, or children in bad health, and the age range for IDACI ends at 18. There is currently insufficient funding available to meet the growing responsibilities of the 16 to 25 student population with learning difficulties and/or disabilities and the use of these proxy measures will do little to reflect the level of need in this older cohort of learners. There is no indicator to represent learners with mental health needs, many of whom can require significant support in order to successfully access education. In addition, the proxy measures do not take account of those children and young people with extremely complex needs who require high cost packages of support.

8. There are additional concerns over the timeliness of some of the proxy measures. As mentioned earlier in this response, the demand for services is increasing and the needs of learners are becoming more complex. The time-lags on a number of the proxy measures will not deliver the funding LAs need to meet immediate and growing need. For example, allocation for basic entitlement funding does not use the most up to date data available, January 2017 data will be used for 2018/19 allocations. It is unclear why the October school census data is not being used to provide a more accurate reflection of a school's learners and ensure consistency with the proposed schools national funding formula. Children in bad health data and population data, amongst others, will also be significantly out of date when used to inform allocations.
9. The proposals outline new funding arrangements for high need places in further education (FE) institutions whereby the planned places return submission requires agreement between the LA and institutions. Where agreement cannot be reached, the institution will continue to receive element 2 funding based on the number of places in the previous year's submission. As the commissioner of post 16 education, LAs must have the power to determine how many places are required. These proposals will do nothing to aid LAs in their strategic reviews of services if FE institutions can themselves determine how many places are needed irrespective of local need.
10. There are significant variations across the county in relation to funding contributions from health partners for those learners with medical needs and disabilities. There is a perception that in many cases, health services do not fairly contribute and as a result, LAs must provide additional funding to meet health needs to ensure a learner can access education. There is a need for DfE and DOH to come together to develop joint guidance on this issue.
11. ADCS members believe that inclusion should sit at the heart of the education system, therefore, we welcome the recent announcement of Ofsted's investigation into schools that are 'gaming the system'. Such practices can include entering pupils for non-academic qualifications, excluding pupils during critical GCSE studies or encouraging parents to educate at home, all to improve league table performances. This lack of inclusivity is driven, in part, by the ever-sharper focus on absolute achievement, rather than progress, as part of the ongoing national reforms and the inspectorate's framework for inspecting schools. This does nothing to support vulnerable learners achieve their potential and requires urgent review. This is in stark contrast with the relatively new SEND inspections which focus on how well pupils are supported to reach their identified outcomes. In a system of not enough, there is a risk that practices designed to 'game the system' continue as mainstream schools' ability to provide SEN support diminishes.

For further information, please contact Esther Kavanagh Dixon, ADCS Policy Officer, [esther@adcs.org.uk](mailto:esther@adcs.org.uk).

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Piccadilly House, 49 Piccadilly, Manchester, M1 2AP  
Tel: 0161 826 9484 Email: [info@adcs.org.uk](mailto:info@adcs.org.uk) Website: [www.adcs.org.uk](http://www.adcs.org.uk)

Registered in England and Wales. Company number: 06801922  
VAT registration number: 948814381.