

Call for evidence on the provision for children and young people with special educational needs and disabilities, and for those who need alternative provision: how the financial arrangements work

Response of the Association of School and College Leaders

A. Introduction

- 1 The Association of School and College Leaders (ASCL) represents over 19,000 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business managers and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million young people in more than 90 per cent of the secondary and tertiary phases, and in an increasing proportion of the primary phase. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
- 2 ASCL welcomes the opportunity to contribute to this call for evidence. The government's own statistics¹ report that the number of children and young people with Education, Health and Care Plans (EHCPs) has increased by 11% since 2018. Of the 354,000 children and young people with an EHCP, over 39% are receiving SEN provision in a mainstream school and over 16% are in a Further Education establishment.
- 3 In addition to those with an EHCP there are more than one million children and young people receiving SEN support², mostly in mainstream settings. We understand that this call for evidence is about how the current financial arrangements work, and not about the funding quantum. However, the pressure on school budgets created by providing support for a wide range of need in a system where the distribution formula does not always reliably measure SEN cannot be underestimated.
- 4 ASCL believes that the following actions should be taken with immediate effect:
 - **Promote a culture of collective responsibility** in order to best meet the needs of children and young people with SEND. There are excellent existing examples of collaboration, but the way in which financial arrangements work means that these are often more reactive than we would like.
 - **Remove notional SEN budgets from the financial arrangements.** We believe that notional SEN budgets are unhelpful. Instead, there should be more emphasis on adequate basis funding. It is our view that the basic per pupil amount must be sufficient to avoid funding allocated to additional needs factors subsidising core provision, which is currently the case.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805014/SEN2_2019_text.pdf

2

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729208/SEN_2018_Text.pdf

- **Increase investment in good local provision.** The current financial arrangements do not support the recent explosion of complex needs. This has led to a situation in which the most expensive types of provision are too often utilised, rather than there being a more cohesive, staged response to need.
 - **Review the EHCP process.** An unintended consequence of the revised code of practice has led to a cliff edge in support, with the EHCP becoming a 'golden ticket' to statutory provision and funding.
 - **Implement national standards for the transparent operation of top-up funding.** Wide-ranging differences exist between bandings and associated monetary value across the country. A national framework for standards that is relative to need should be introduced and applied consistently.
- 5 We have ordered the remainder of our response to reflect the five areas of focus of this call for evidence. We have responded to specific questions (where appropriate) within each of the five focus areas.

B. Funding for pupils with SEN in mainstream schools (Questions 1 to 15)

General points

- 6 Notional SEN budgets (as they currently exist in an individual school's delegated budget) are unhelpful and should be taken out of the financial arrangements. We need to get the basics right. The call for evidence asks about the distribution factors within the NFF and which are most important in ensuring that schools can meet the needs of their pupils with SEN. It is our view that the basic per pupil amount must be sufficient to avoid funding for deprivation subsidising core provision, which is currently the case.
- 7 We remain unsure about the threshold value of £6k, or indeed whether there should be a threshold at all. As above, the concept of a notional value is unhelpful. There seems to be a lack of transparency about what it actually means and how it is spent.
- 8 In a model in which schools continue to be required to fund support up to a threshold value, the tiering of factors (such as LPA) is likely to disadvantage schools who support a very broad range of needs. In addition, assessment at KS2 does not always give a clear indication of SEND need for all students, such as those with ADHD and ASD. It is very hard to determine the most effective measures for SEN; consequently funding and provision rarely correlate sensibly. The system for measuring need would need to be more reliable if tiering is introduced. It is ASCL's view that schools are the best arbiters of distributing LPA funds as the needs of pupils change.
- 9 There needs to be a consistent approach to top-up funding across all LAs. Differences (particularly those that exist between neighbouring LAs) can result in a perverse incentive against inclusion.
- 10 The local offer should be clearly and consistently communicated to parents, so that criteria for, and access to, support are transparent. However, we have concerns about parental choice and the rigour with which the value for money test is applied.
- 11 The EHCP process should be reviewed. An unintended consequence of the revised code of practice has led to a cliff edge in support with an EHCP becoming a 'golden ticket' to statutory provision and the subsequent funding.

Question 1: What formula factors are most important in providing schools with enough money to ensure they meet the needs of their pupils with SEN?

12 We would rank the current formula factors in the following order of importance:

Factor	Rank
Age-weighted pupil unit of funding	1 Must be sufficient to deliver a core curriculum so that 100% additionality factors are available to meet threshold SEND demands.
Low prior attainment	2
IDACI – a measure of area deprivation	4
Eligibility for free school meals – a measure of deprivation relating to individual children	3
Mobility – additional funding for schools that have a high proportion of pupils who start at a school mid-year	5
Standard lump sum – intended to reflect fixed costs of a school, however many pupils and teachers are required	7
Other (please add below any other factors you think are important for ensuring that schools get an annual budget that enables them to provide appropriate SEN support)	6 Acknowledgment that the NFF is a distribution methodology and cannot deliver sufficiency in any arrangement of factor weightings/values if the overall quantum is not sufficient. The quantum must deliver an adequate AWP (see comments above) and ensure that deprivation factors are not subsidising core provision.

Question 2: Would allocating more funding towards lower attainers within the low prior attainment factor help to better target funding towards the schools that have to make more SEN provision for their pupils?

13 We are unsure about the impact of this change. See comments in paragraphs 14, 15 and 16 below.

Question 3: What positive distributional impact would this change in approach (e.g. creating tiers of low prior attainment) create for mainstream primary and secondary schools?

14 Assuming that the tiering would be the result of a redistribution, rather than additional funding for LPA, we don't see any overall positive impact. It is ASCL's view that schools are the best arbiter of distributing LPA funds as the needs of pupils change.

Question 4: Would such a change in approach introduce any negative impact for mainstream primary and secondary schools?

- 15 In a model in which schools continue to be required to fund support up to a threshold value, tiering is likely to disadvantage schools which support a very broad range of needs.
- 16 In addition, assessment at KS2 does not always give a clear indication of SEND need for all students, such as those with ADHD and ASD. The system for measuring need would need to be more reliable if tiering is introduced. It is ASCL's view that schools are the best arbiters of distributing LPA funds as the needs of pupils change.

Question 5: Please indicate whether you agree or disagree with the statements below, and give the advantages and disadvantages of your preferred approach

Statement	Agree	Disagree	Neither agree nor disagree
Local authorities should retain the flexibility to develop, in consultation with their schools, their own method of targeting extra SEN funding to schools that need it.			√
Central government should provide more guidance for local authorities on how they should target extra SEN funding to schools, but local authorities should remain responsible for determining the amounts in consultation with their schools.			√
Central government should prescribe a consistent national approach to the targeting of additional funding to schools that have a higher proportion of pupils with SEN and/or those with more complex needs.	√		

- 17 Pressures on LA budgets are leading to increasing pressure on the high needs block. The 2018 [IFS report](#) on education spending shows that LAs have suffered 55% cuts to their spending on education since 2009/10. SEND-related expenditure that historically sits outside the dedicated schools grant will have been squeezed as expenditure on other public services has been eroded.
- 18 ASCL considers that the immediate and grave pressures on high needs funding blocks across the country have now reached critical proportions. We are in imminent danger of failing the most vulnerable young people in society as the capacity to allocate this targeted additional funding diminishes and the number of children and young people requiring support continues to grow.
- 19 At the same time, the pattern of placements is changing to a more costly model, with a greater proportion of children and young people attending maintained special, alternative or INMSS provision. According to the [LGA / Isos Tipping Point](#) report, in 2017/18 the average annual cost of a placement was £6,000 per pupil in a mainstream school, £23,000 per pupil in a maintained special school and £40,000 per pupil in INMSS provision.

Question 6: Is it helpful for local authorities to continue to calculate a notional SEN budget for each school, and for this information to be published, as now?

- 20 It is our view that LA notional SEN budgets for schools are unhelpful and should be taken out of the financial arrangements.

Question 8: Should the national funding formula for schools include a notional SEN budget, or a way of calculating how much of each school's funding is intended to meet the costs of special provision for pupils with SEN?

- 21 Whilst it may be useful for schools to be given an indication of the need to spend, we believe that the current inconsistency of approach to calculation of notional SEN means that it does not function as intended.
- 22 If the notional SEN budget continues, consideration should be given to a national methodology.
- 23 However, it is our view that the profile of demand and distribution of pupils with SEND means that it may be unachievable to improve the accuracy of the notional SEN calculation to the point where there is a good fit between notional SEN budgets and underlying need. Instead, government should focus on the sufficiency and weighting of factors in the national funding formula methodology in order to ensure that schools have sufficient funding in the core budget so that funding for additionality can be targeted entirely to supporting those pupils who are eligible. Currently additionality funding is subsidising core provision in some schools. In these circumstances the notional SEN budget should be removed.

Question 9: Please indicate whether or not you agree with the following statements

	Agree	Disagree	Not Sure
The level of the threshold makes little or no difference to the system for making special provision: it is the level of funding available to schools and local authorities that is crucial.	√		
The £6,000 threshold should be lower, so that schools do not have to make as much provision for pupils with SEN from their annual budgets, before they access top-up funding from the local authority.			√
The £6,000 threshold should be higher, so that schools have to make more provision for pupils with SEN from their annual budgets, before they access top-up funding from the local authority.			√
The operation of the £6,000 threshold should take account of particular circumstances.	√		

Question 10: If you have agreed with the final statement in question 9, please indicate below which circumstances you think would be relevant for a modified threshold or different funding arrangement

- 24 The relevant circumstances, in our view, should be as follows:
- schools that are relatively small
 - schools that have a disproportionate number of pupils with high needs or EHCPs
 - when pupils with EHCPs are admitted during the year

Additional comments on Questions 9 and 10

- 25 It may be useful for schools to have a threshold as a starting point for discussions with the LA and other partners.
- 26 However, the usefulness of this threshold is diminished by factors that prevail in other parts of the SEND funding and provision system. These include:
- the variance in accessibility to top-up funding
 - the current methodology for delivering the minimum per pupil funding (mpf) guarantee under the NFF which means that funding for additional needs is included before any mpf is calculated
 - inflationary pressures on the cost of provision that are not reflected in relative changes to availability of top-up funding
 - increased pressure on mainstream schools caused by reductions in centrally commissioned support services as a consequence of cuts to LA budgets more broadly

C. Funding for pupils who need alternative provision (AP) or are at risk of exclusion from school (Questions 16 to 19)

General points

- 27 The arrangements for funding AP work in LAs in which there is a focus on inclusion, and mainstream and AP work collaboratively. There should be an improved focus on inclusion to extend good practice such as that seen in Tower Hamlets (London East) where pupil outcomes are above national average.³
- 28 Larger LAs should consider creating families of schools or regional hubs to provide cost effective AP.
- 29 Changes to the way in which high needs funding is distributed, directly to schools for example, would not be helpful in supporting early intervention and collaboration between mainstream and AP.

Question 16: Please indicate your agreement or disagreement with the following statements:

Statement 1 *The current funding arrangements help schools, local authorities and AP to work together and to intervene early where such action may avoid the need for permanent exclusion later*

Statement 2 *The current AP funding arrangements help schools and AP to reintegrate children from AP back into mainstream schooling where this is appropriate*

- 30 The extent of the local variance in terms of how the financial arrangements are managed makes it impossible to agree or disagree with either statement on a national basis. We are very concerned by the lack of consistency in this area experienced by our members.

³ www.londoneastap.org.uk/435/exam-results

Question 17: How could we encourage more collaboration between local authorities, schools and providers to plan and fund local AP and early intervention support?

- 31 We believe that a stronger focus on inclusion at LA level would support greater collaboration.
- 32 LAs, schools and colleges do work together in some areas. However, a more strategic, interventionist approach is needed as current practice tends to be reactive.
- 33 We note the recommendations in the Timpson review that would see mainstream schools accountable for the outcomes of permanently excluded pupils in order to reward positive and inclusive school cultures. Any such measure will need to be carefully considered to ensure that it is sensible, fair and fit-for-purpose. For example, to what extent would it be reasonable to hold a school accountable for the GCSE results of a pupil who had been excluded several years earlier? ASCL is currently considering how an 'inclusive accountability' system might work, and we look forward to discussing this proposal with the Department for Education.
- 34 We were disappointed that the Timpson review did not address the paucity of funding. We know that schools have had to cut back on support staff who provide early intervention to children with challenging behaviour. This makes it more difficult to prevent challenging behaviour escalating to a level that makes AP the required course of action.

Question 18: What changes could be made to improve the way that the AP budget is spent, to better enable local authorities, schools and providers to use the local AP budget to provide high quality AP, intervene early to support children at risk of exclusion from school, or reintegrate pupils in AP back into mainstream where appropriate?

- 35 The current model of AP whereby funding is largely from the high needs block and supported by mainstream does work in some areas. However, it would be improved by clear understanding of what outstanding AP looks like and access to sufficient funding to provide what should be delivered.
- 36 Larger LAs should consider creating a localised landscape, with families of schools and AP providers or regional working groups providing cost effective AP.
- 37 Access to a sufficient and sustainable AP budget would nurture inclusivity across groups of schools. ASCL welcomed the government's commitment, in its response to the Timpson review, to provide revised guidance and more training and support for school leaders in this area.

D. Funding for students with SEN in further education (Questions 20 to 22)

General points

- 38 The current funding arrangements do not properly address the extension of LAs' responsibility to support young people up to the age of 25.
- 39 The place funding for high needs paid to colleges via the ESFA is often not sufficiently flexible to meet needs. There are examples of funding which applies to 16 to 19 year olds causing unhelpful decisions to be made. There is also a significant difference

between the funding for AP for pre-16 classes and those post 16, which leads to inconsistencies in the provision and class sizes.

Question 20: Are there aspects of the operation of the funding system that prevent young people from accessing the support they need to prepare them for adult life?

- 40 It is ASCL's view that the extension of LA responsibilities to include young people up to the age of 25 has not been properly included in the funding model. According to the [LGA / Isos Tipping Point report](#), if 90% of 19-year-olds retain their entitlement to an EHCP, the system will grow by 15,000 EHCPs each year between 2014 (when the Children and Families Act introduced a legislative change) and 2020 (when those aged 18 at the time of the change will have reached 25).
- 41 Decisions on LA funding for high needs in colleges tend to be made by their local Schools Forum, on which colleges are generally less well represented than schools.
- 42 There are many examples of full time AP being provided in further education colleges, but the funding is based on 16-19 funded provision (£4,000 per learner) and is funded at a lower rate than mainstream school provision. However, engagement and progression by this age group in colleges is good, and inspection reports show that this provision is successful, with progression to post-16 education and training being very good.

Question 21: Notwithstanding your views about the sufficiency of funding, please describe any other aspects of the financial and funding arrangements that you think could be amended to improve the delivery of provision for young people with SEN.

- 43 As previously mentioned, the lack of consistency between LAs, both in terms of funding received from government and mechanisms for allocation, is a barrier to access. Colleges often deal with more than one authority and therefore the issue of inconsistency is exacerbated.

E. Improving early intervention at each age and stage to prepare young people for adulthood sooner (Questions 23 to 25)

- 44 Early intervention should mean just that, and begin with family support even before a child enters early years education. The 'First 1000 days of life' report ⁴ supports this view. The current funding arrangements support a reactive approach to intervention and feed the deficit model.
- 45 The system of accountability should be more inclusive in order to address perverse incentives. It can be cheaper in the short term, to pass costs to the high needs block (via EHCPs or exclusion) than making quality preventative support available across all key stages.

Question 23: Are the current funding or financial arrangements making early intervention and prevention more difficult to deliver, causing costs to escalate?

- 46 Undoubtedly. Findings from ASCL's 2017 funding survey indicated that almost all respondents (95%) had reduced support services as a result of real terms funding cuts. Of those, 58% indicated that SEND support had been cut.

⁴ <https://publications.parliament.uk/pa/cm201719/cmselect/cmhealth/1496/1496.pdf>

- 47 Findings from our May 2018 Business Leaders survey indicated that 70% of respondents expected to have to reduce individual student support, and 34% were expecting to reduce counselling and mental health support as a result of real terms funding cuts.
- 48 Funding constraints make the transition of young people from school to college more difficult. Preparation for adulthood should start in year 9 at school, but this is not always happening. Mental health difficulties for young people and lack of access to sufficient funding also make it difficult for young people with behaviour difficulties to cope post 16, especially if they do not have an EHCP. A nationally agreed approach to sharing information for young people making the transition from school to college would be very helpful.

Question 25: If you think there are particular transition points at which it would be more effective to access resources, please indicate below those you believe would be most effective to focus on.

- 49 All transition points are important. The issue is the lack of inclusivity in the current model. Effective intervention requires properly trained and funded staff who can operate across all age ranges and across a community of schools and colleges.
- 50 We would support the LGA/Isos proposal to rethink how accountability measures reflect the achievements of schools which make good progress with children and young people with SEND or at risk of exclusion.

F. Effective partnership working to support children and young people with complex needs (Questions 26 to 28)

General points

- 51 We must promote a culture of collective responsibility in order to best meet the needs of children and young people with SEND. There are excellent existing examples of collaboration, but the way the financial arrangements work means that these are often more reactive than we would like. This must include collective financial responsibility between schools, AP provision and the health service.
- 52 Tensions that make a culture of collective responsibility difficult to achieve include geographical location, accountability and admissions policies.
- 53 Greater investment is required in a range of good local provision. The current financial arrangements do not support the recent explosion of complex needs. This has led to a situation in which the most expensive types of provision are too often utilised, rather than a more cohesive, staged response to need.

Question 26: Please describe as briefly as possible below changes that you think could be made to the funding system nationally and/or locally that would foster more effective collaborative approaches and partnership arrangements.

- 54 Ensure that all relevant health bodies are compliant with the requirement to make appropriate contributions to EHCPs. The existing default position means that education is the funder of last resort too often.
- 55 Implement national principles or standards for the transparent operation of top-up funding. These standards should be relative to need and be applied consistently across the country.

- 56 Review the current operational practice of LAs as strategic commissioners of SEND. Consider utilising virtual schools teams as the holder of the high needs block. Clear lines of accountability would need to be set at national level to ensure consistency of approach and sharing of good practice.
- 57 Review the EHCP process. The current system attempts to measure individual need and apportion a set amount of funding based on general criteria and affordability (largely governed by historic spend).
- 58 Consider the impact that parental choice has on cost. How robustly is the test of efficient use of resources being applied to inform the decision about a placement?
- 59 The spending review cycle is not the best mechanism for determining education expenditure. The levels of uncertainty that prevail as the end of a spending review period approaches (this is very evident in 2019) limit the effectiveness of any financial arrangements. Strategic financial planning looking three to five years ahead is easily replaced by knee-jerk short-term decisions. Schools and colleges need rolling three-year budget settlements if they are to effectively budget plan and risk assess curriculum delivery for children and young people with SEN, and work collaboratively with partners in special schools and AP.

Question 27: Are there any aspects of the funding and financial arrangements, not covered in your previous responses, that are creating perverse incentives?

- 60 Minimum per pupil levels: current methodology incorporates basic per pupil funding and almost all additionality funding. Schools with low levels of additional need are likely to gain more under this methodology and perpetuate a perverse incentive against inclusivity. Minimum per pupil funding should reflect basic per pupil funding only.
- 61 Transfer costs to the high needs block: it can be cheaper in the short term to pass the cost of an EHCP or a permanent exclusion onto the high needs block, rather than making good quality preventative support available in school.

G. Conclusion

- 62 I hope that this response is of value to your consultation. ASCL is willing to be further consulted and to assist in any way that we can.

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