

**Report for:** Cabinet, 19 September 2023

**Item number:**

**Title:** Haringey SEND Top Up and High Needs Funding Banding

**Report authorised by :** Ann Graham, Director: Children's Services

**Lead Officer:** Jackie Difolco, Assistant Director: Early Help, Prevention and SEND  
Mary Jarrett, Head of Service: SEND Services

**Ward(s) affected:** All

## Report for Key Decision

### 1. Describe the issue under consideration

1.1 This paper reports on the proposed changes to be made to the funding arrangements to support children and young people with Special Educational Needs and Disabilities (SEND) who attend early years provision (including school nurseries, child minders, Private, Voluntary or Independent (PVI) nurseries or other forms of funded early years provision) in Haringey or mainstream or special school settings in Haringey (either mainstream or academy status). It seeks Cabinet approval to undertake public consultation on these proposed changes. Following this consultation, a final draft of the policy will be submitted to Cabinet for approval prior to implementation.

### 2. Cabinet Member Introduction

2.1 Funding to support children with special educational needs and disabilities is part of the Dedicated Schools Grant (DSG) from central government and is located within the High Needs Block (HNB). Ensuring these resources are allocated fairly and transparently to support all children with special needs is a critical task and has underpinned this report.

2.2 In entering into the Safety Valve agreement with the DfE, and as a condition of participation, the Council committed to review the way in which resources for children with SEND were allocated. This has led to a review of the funding structure involving bandings and top-up allocations to ensure these are fair, open and transparent.

2.3 The review has been extensive, detailed and wide ranging and officers have worked with many vital and key stakeholders over a long period of time to develop new proposals with the aim of allocating funding more equitably. The working review group has included parents and carers, representatives from mainstream and special schools, specialist teaching staff, health colleagues and education psychology with an aim to develop two sets of banding descriptors, which are designed to meet the needs of children and young people with SEND more effectively and accurately than the current system.

2.4 This has been a long process, and now proposals have been developed the next step is to consult on them and invite comments and responses from the many stakeholders involved in SEND. I am delighted to present this report which sets out the work done so far and asks Cabinet to endorse the proposal to go out to wide consultation on this vital area of funding for SEND.

### **3. Recommendations**

3.1 That Cabinet approves the commencement of a voluntary consultation on the proposed changes to the bandings and top up funding for Early Years, mainstream and special school education settings for SEND.

3.2 That Cabinet approves the draft consultation questions to commence over an 8 week consultation period from the 5<sup>th</sup> October 2023 to 1<sup>st</sup> December 2023.

3.3 That Cabinet notes that a report on the outcome of the consultation and final decision on the proposed policy changes will be submitted to Cabinet at a future date.

### **4. Reasons for decision**

4.1 Haringey Council has a statutory duty to deliver support to children and young people with SEND. These responsibilities are described in the Children and Families Act 2014 which sets out the Local Authority's duties to assess young people's SEND needs and to make provision to meet these needs.

4.2 Funding to support children and young people who require additional support to meet their SEND needs is allocated to Haringey Council via the Dedicated Schools Grant, with the High Needs Block within this grant being specifically allocated to make financial provision to meet the identified SEND needs of children and young people.

4.3 Haringey Council is part of the national Safety Valve Programme which is designed to assist local authorities in reducing overspend in their High Needs Block expenditure and achieve an in year balanced budget. Haringey has agreed a Safety Valve deal until 2027-2028, incorporating 18 projects, which if successful will draw down funding of £30m to clear the projected deficit. As of 1 April 2023, due to the strength of and confidence in the proposals, Haringey has received £11.96m which has reduced the cumulative deficit to £11.8m. Haringey has reported an in year overspend of £2.22m and is forecasting cumulative surplus of £0.1m by 2027/28.(Refer to Haringey Safety Valve Programme report to Cabinet 13 September 2022)

4.4 As part of the conditions of participation within the Safety Valve programme Haringey council has committed to review SEND bandings and top-up allocations to ensure that these are needs led, fair, open, transparent.

4.5 To inform this work, Haringey Council has worked with key stakeholders, including but not exclusively, parents and carers, schools, specialist teaching staff, health

colleagues and education psychology to develop two sets of banding descriptors which are designed to meet the needs of children and young people with SEND.

4.6 The Bandings and Top-ups work has been informed by the following agreed principles and values:

- a) **Universality:** There should be a consistent set of principles and methodology for allocating SEN top-up funding across all phases and settings. There may be flexibility to reflect differences in age / stage.
- b) **Fairness:** There should be recognition that the High Needs Block allocation for Haringey, and that decisions about funding in one area affect resources available to another. As such, strategic and operational decisions about SEN funding should be made transparently, consistently and fairly, to ensure that resources are targeted at where there are the greatest needs.
- c) **Ease of use:** The approach to SEN funding in Haringey, and the tools used to inform and reach decisions, should be straightforward to explain, concise and easy to use.
- d) **Mutually-reinforcing:** The SEN funding system should align with guidance for when to carry out EHC needs assessments and the agreed definition of “ordinarily-available provision” in Haringey. It should also align with the threshold for being allocated a place in a special school.
- e) **Needs led:** The approach to banding should be based on clear descriptors of need that are easy to understand. These could be complemented with examples of how these needs might be met in a Haringey school.

4.7 Appendix Three: Proposed Early Years Bandings describes the proposed new Banding descriptors for children aged 0-5 in Early Years settings. Key changes are outlined as follows:

- a) these bandings are applied fairly and equally across all early years settings in Haringey,
- b) there will be an increase from 2 to 4 Bands allowing for a better description of children’s needs,
- c) that these bandings are applied until children reach the end of the Early Years Foundation stage allowing support for children to be extended until the age of 5 in line with developmental stages with regular 6 monthly progress reviews,
- d) that these bandings are funded jointly from the Early Years block and the High Needs Block of the Dedicated schools Grant (DSG) to ensure that sufficient funding is available to support children at the earliest point of intervention but that the amount of support from the High Needs Block (HNB) is reviewed in accordance with the terms and conditions the council’s Safety Valve agreement and what is allowable within the HNB grant and conditions,
- e) bandings will be agreed at ‘Early Years Review’ meetings held by the Early Years provider and parent and based on evidence supplied and supported by relevant health and local authority education specialists. The decision to award the top-up band will be agreed at this meeting and subject to a termly review to ensure parity and equity of funding across settings.
- f) the amount of funding which each of the individual 4 bands is allocated will be calculated annually based on the financial allocation within the DSG and will be published annually in April to allow for budget setting for settings by academic year,

- g) each band will be clearly described with the highest financial award being allocated to children with the most complexity of need,
- h) it is proposed that the services move incrementally into the new system over a 3 year period to ensure minimum disruption to children and settings, with the new system being incrementally introduced through settings as new children are assessed.

4.8 Appendix Four: Proposed SEND Bandings for school aged children and young people describes the new bandings formulations for children and young people aged 5-19 who attend a mainstream or special school located within the London Borough of Haringey (either maintained or academy) but not Independent Schools (which are subject to different funding arrangements). Key changes are outlined as follows:

- a) there will be an increase from 4 to 8 bands with 3 bands describing SEN support available to children prior to consideration of an education, health and care plan (EHCP),
- b) that the Bandings are used to describe children and young peoples needs on a continuum.
- c) that there is an additional band introduced which allows for additional financial support to schools to allow for early intervention and support, to prevent a child's needs from escalating further and without the need for an EHCP.
- d) the amount of money allocated to each of the individual 8 bands will be calculated annually based on the financial allocation within the High Needs Block of the Designated Schools Grant and each banding amount will be published annually in April to allow for budget-setting for settings by academic year,
- e) the amount of money allocated to each child will be agreed by Haringey SEND Panel based on the evidence and recommendations of the parents, Special Education Needs and
- f) Disability Co-ordinator (SENDSCO) and specialist education professionals who are responsible for supporting the child or young person
- g) bandings and top-ups will be reviewed at each child's SEN or EHCP annual review,
- h) during the proposed transition year, September 2023 – August 2024, every child or young person who currently has top-up funding from the High Needs Block of the DSG will have a planned audit of their EHCP which will indicate their new band. Where a child's audit indicates that their plan is not indicative or reflective of their needs, an annual review of their EHCP will be held before a new banding is allocated. In such annual reviews, professionals will satisfy themselves that the proposed allocation of funding for that child or young person is sufficient to provide all special educational provision in section F of the EHC plan. The Haringey SEND service will be training all Haringey Schools in assessing children in relation to the new bandings during the first half of the Autumn term (2023) and extensive testing previously undertaken in a range of schools indicates that for the majority of children this is a straightforward process using the indicative needs of the child as described within their EHCP and applying them to the new bandings.
- i) every child or young person who currently has top-up funding from the High Needs Block of the DSG will have a review which will be supported by the School SENCO and parents and carers. A new banding allocation will be made based on the needs evidenced within the child or young person's existing plan,

and any banding which deviates from the existing scale by 2 or more points will be taken to Haringey SEND Panel for moderation. Following application of bandings to individual children, the SEND Service and Schools Finance Team will allocate top-up funding based on allocation of existing monies within the HNB and allocate an amount per band based on the budget available within the High Needs Block and the complexity of the needs of the child (thus band H will always be higher funding than Band A). This calibration of top-up funding will take place annually in recognition of annual fluctuations in budget allocation from central government and will be sent to schools forum annually in April for agreement.

- 4.9 There is no duty to consult with regards to changings in bandings. As good practice, the proposal is to undertake public consultation via an on-line consultation form published on the Haringey SEND Local Offer web-site. This will be for a period of 8 weeks to ensure that families, schools and other stakeholders have sufficient time to respond to the proposed changes. The proposed consultation questions and communications plan are attached as Appendix Five: Proposed consultation questions and Appendix Six: Bandings and Top Ups Comms Plan
- 4.10 The consultation will also be promoted via the SEND Newsletter, Special Schools and Parent Carers Forum and a range of other relevant networks within the education, health and care sector.

The consultation will be 8 weeks in total as work to produce the new Bandings and Top-ups has involved key stakeholders throughout the process to date. This includes SEND Power (parent carer forum), early years settings, mainstream and special schools who engaged in events and workshops, modelling the bandings with schools using pupil cohorts.

## **5. Alternative options considered**

- 5.1 Consideration has been given to retaining the bandings in their current form with no changes made. This option is not considered to be sustainable in light of the feedback from stakeholders regarding developing a more equitable system and within the context of the Safety Valve programme to achieve a balanced budget. Where alternative options are provided in response to the consultation, these will be fully considered.

## **6. Background information**

- 6.1 Haringey Council is working hard to transform their SEND Services through a substantial improvement programme that is underpinned by Haringey's SEND Strategy 2022 - 2025. During the academic year 2021-2022, the Council commissioned the ISOS partnership (research and advisory organisation supporting public sector organisations) to complete a review of our local SEND funding arrangements with our stakeholders. During this review the current bandings and top-up arrangements was identified as an area for improvement. (Refer to Appendix One: Existing early Years Bandings and top-Ups and Appendix Two: Existing 0-19 Bandings and Top-ups (mainstream Schools))

- 6.2 The current banding descriptors, funding and decision making arrangements were subject to internal review and external scrutiny, with queries about the lack of specificity within the current bandings framework being identified. Further concerns were raised by schools and parents who felt that the current bandings were limited in scope, that decision-making in relation to resource allocation lacked clarity and that the schools were not being transparently funded to meet the needs of children. In addition, a number of contingency funding arrangements had evolved to address inequities within SEND systems, including the distribution of pupils with SEND across schools in the borough. This means, top-up funding allocated to schools is being supplemented by additional monies via a SEND contingency fund which pays an additional amount of High Needs Block funding to schools with a disproportionate and higher than Haringey average number of EHCPs per school. For 2023- 2023, this equated to £1.8 million.
- 6.3 During the academic year 2022-2023, the ISOS partnership have held a series of meetings with a stakeholder steering group made up of SEND specialists including parents and carers, from across Haringey to inform the development of a new 'Bandings System' based on examples of best practice nationally. This steering group has overseen the development of the new Bandings Framework and developed the governance proposals to support implementation. There have been briefings to Primary, Secondary and Special Heads and additional consultation work undertaken with Special schools in recognition of the additional impact on them. Feedback from schools and SEND Power is that they welcome a fairer and more nuanced system.
- 6.4 The stakeholder steering group has been supported by a series of wider stakeholder groups and meetings. These include a specialist Early Years task and finish group and specific co-production events with representatives from Special School Headteachers, Haringey SEND Power and other SEND experts, including Health professionals. These groups have met regularly including attending a full day event in November 2022 to complete the Bandings formulation.
- 6.5 The proposed Bandings have been tested during the latter part of academic year 2022- 2023 in a range of provisions including primary, secondary and special school settings, leading to further revisions and refinement. (Refer to Appendix Three: Proposed Early Years Bandings and Appendix Four: Proposed SEND Bandings for School aged children and young people).
- 6.6 The banding testing indicated that for the majority of children at primary and special school their plans allowed for easy re-banding within the new framework; the bandings testing at secondary school indicated that in order to be successful every child would need an up-to-date plan and this work has been prioritised with additional resource allocated to the Statutory Assessment Team to facilitate this.
- 6.7 In determining the bandings, Haringey will take steps to satisfy itself that the amount of money allocated is sufficient to provide all of the special educational provision set out in section F of each child's EHC plan. Whilst the evidence does not suggest any major impact on funding for individual children and therefore on schools (rather a rationalisation of process and fairer, more transparent systems) should the initial audit work indicate a significant impact on a particular school due to the changes in banding then the Local authority will work with the school to

create mitigation processes which will be taken with the proposed banding rates to schools forum in April 2024 and annually thereafter.

## **7. Contribution to the Corporate Delivery Plan 2022 – 2024 and strategic outcomes**

7.1 The objectives of the revised ‘Bandings and Top-ups’ processes are aligned with the priorities within Haringey’s Corporate Delivery Plan 2023-2024’ specifically:

### Theme 3: Children and young people

- Outcome 1: Best Start in Life – The first few years of every child’s life will give them the long term foundation to thrive
  - Outcome 2 Happy Childhoods - All children across the borough will be happy and healthy as they grow up, feeling safe and secure in their family networks and communities.
  - Outcome 3 Successful Futures - Every young person, whatever their background, has a pathway to success for the future.
- 7.2 This work contributes to Haringey’s SEND Strategy 2022- 2025, which contains 5 priorities, of which Priority One identifies the need to ‘Support Children at the Earliest Opportunity to access the intervention they need to achieve and thrive and priority five within Haringey Early Years Strategy 2022 - 2026: Every child should be able to have access to the high quality inclusive provision that is tailored to their needs’

## **8. Carbon and Climate change**

8.1 Not applicable at this stage

## **9. Statutory Officers comments (Director of Finance ( procurement), Head of Legal and Governance, Equalities)**

### Finance

- 9.1 The recommendation to commence consultation will not give rise to any financial implications. Any future decisions arising as a result of the consultation will be considered as they arise.
- 9.2 In 2022/23 The Council spent £39.5m from the Dedicated Schools Grant on SEND top-ups in Early Years, Primary, Secondary and Specialist Schools in Borough. The Council spends an additional £1.825m on SEND contingency funding which has been put in place to address inequities within the current funding arrangements.
- 9.3 The Council, in accordance with the Safety valve agreement must reduce overall spend from the Designated Schools Grant by £47.8m over the 5 years of the programme.

- 9.4 It is proposed that each Banding is reviewed annually to ensure that the Council spend remains within the allocated financial envelope and to prevent further overspend within the Designated schools Grant and breach of the Safety valve conditions.

### **Procurement**

- 9.5 Strategic Procurement notes the contents of this report and confirms there are no procurement related matters that would prevent the Council agreeing the recommendations stated in this report.

### **Head of Legal & Governance**

- 9.6 The support for children and young people with SEND is set out in Part 3 of the Children and Families Act 2014 [ the Act], in statutory guidance Special Educational Needs and Disability Code of Practice and s10 Children Act 2004 requires the local authority to promote cooperation between its relevant partners and should do so with a view to improving the wellbeing of children in their area so far as this relates to, amongst other things, education and training.
- 9.7 Section 27 of the Act requires a local authority to keep under review its educational, training and social care provision for children and young people with SEND and to consider the extent to which the provision is sufficient to meet need. In addition, Section 42 of the Act provides that a local authority must secure the provision identified in a child's EHC plan. This obligation is not dependant on the local authority's resources.
- 9.8 The Act requires local authorities to consult with a range of stakeholders when considering whether it's SEND services is sufficient to meet the educational, social and training needs of the children and young people concerned. However, case law has established that the duty to consult does not extend to decisions about SEND Funding Bandings. The use of Funding Bandings is not in itself a breach of the s42 duty to secure the provision identified in a child's EHC plan. In changing the Bandings, the local authority must satisfy itself that the amount allocated to a child or young person is sufficient to provide the special educational provision set out in section F of an EHC Plan.
- 9.9 The local authority can chose to undertake a public consultation on a voluntary basis and in doing so must comply with the requirements for a public consultation.
- 9.10 Good practice requires that the consultations take place when proposals are at a formative stage, sufficient information must be provided in the consultation to allow those consulted to make informed responses, there must be sufficient time for responses and consultation responses must be taken into account before final decisions are made.

### **Equality**

- 9.11 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:



- a) eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act,
- b) advance equality of opportunity between people who share protected characteristics and people who do not foster good relations between people who share those characteristics and people who do not.

9.8 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. The first part of the duty applies to marriage and civil partnership status only. The proposed decision is to approve a public consultation on the proposed changes to the current SEND Bandings and Top-ups This will affect:

- a) all children and young people with SEND including those who are in care,
- b) Schools and early years settings in Haringey.

9.10 Accordingly, this policy will affect the following groups who have protected characteristics: Children and young people; Children and young people with SEND and adults with disabilities.

The objective of the proposed decision is to improve the Council's policies and processes in relation to the provision of SEND Bandings and Top-ups by providing clear guidance, better descriptions of needs and child-centred allocations of resources from within the allocated Financial resources (The Designated Schools Grant).

9.11 This will lead to better access, early intervention and support for children, young people and adults with disabilities, helping address issues raised in relation to inequity of provision across the Borough and lack of transparency in relation to decision making and allocation of resources. The proposed decision therefore represents a measure to:

- a) support fair, open and transparent decision making about the allocation of resources to support children and young people with SEND according to their needs,
- b) and regardless of which setting they are educated within.

9.12 As part of the public consultation on the proposals to change the current policy, provision will be made to ensure that families, schools and other parties have sufficient time to respond to proposed changes. Accessibility needs will also be accommodated by providing translated and/or large print copies of the consultation on request. The consultation will also be promoted so as to maximise reach and seek the views of interested families and parties as far as possible

9.13 A full equalities impact assessment is underway to understand the key groups who will be affected by the policy, how they will be impacted by it, and any mitigations that might be needed in order to ensure that the public sector duty is met. This will be finalised and brought for approval alongside the final reports.

9.14 The Council will take steps to collect demographic data on service users in order to identify any inequalities in service provision that may arise and to inform future equalities analysis.

**10. Use of Appendices**

Appendix One: Existing early Years Bandings and top-Ups

Appendix Two: Existing 0-19 Bandings and Top-ups (mainstream Schools)

Appendix Three: Proposed Early Years Bandings

Appendix Four: Proposed SEND Bandings for School aged children and young people

Appendix Five: Proposed consultation questions

Appendix Six: Bandings and Top Ups Comms Plan

**11. Local Government (Access to Information) Act 1985**

N/A