

Report for: Cabinet, 6 February 2024

Title: Haringey SEND Top Up and High Needs Funding Banding
(post consultation)

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

Lead Officer: Jackie Difolco, Assistant Director: Early Help, Prevention and SEND

Ward(s) affected: All

Report for Key Decision

1. Describe the issue under consideration

1.1 This report proposes that changes are 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, 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), and seeks Cabinet approval for the proposed changes.

1.2 This report proposes that the changes made are monitored by Haringey SEND Executive with a formal review scheduled for January 2025 following implementation to review the impact on children and young people considering equalities data and school finances within this review.

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. The aim has been to develop two sets of banding descriptors, 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, including a period of public consultation. The proposals

in this report are now ready for Cabinet consideration and I am asking Cabinet to approve the new banding descriptors which will underpin SEND funding to our schools and other providers.

3. Recommendations

3.1 That Cabinet approves the proposed changes to the banding descriptors used to allocate funding to children in Early Years and of statutory School age in Haringey as outlined within section 4.12 of the report, Appendix Five: Proposed Early Years Inclusion Banding Descriptors and Appendix Six: Proposed SEND Bandings for School aged children and young people

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 children and 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 (DSG). Included in the DSG, is the High Needs Block which is specifically allocated to make financial provision to meet the identified SEND needs of children and young people.

4.3 Funding for children and young people with Education and Healthcare Plans (EHCP) in mainstream schools is comprised of three elements. The first element is the Age Weighted Pupil Unit (AWPU - the individual money for pupils) which is approximately £4,000 per child; the second element is the notional £6,000 Special Educational Needs (SEN) support money. These elements are allocated directly to schools from their DSG allocation based on the national schools funding formula. If a child has an EHCP, additional financial top-up is allocated by the Local Authority from the High Needs Block. The SEND Bandings are the way in which the Local Authority provides transparency about the amount of top-up money being allocated and the rationale for this. This is a local arrangement, and each Local Authority has its own system based on its evaluation of local need and allocation of funding within the DSG.

4.4. Funding for special schools is comprised of two elements; place funding (£10,340) which is paid for every child at a special school and top-up money. In Haringey this is either £24,000 or £27,000 depending on where the child attends. All the money for special schools comes from the High Needs Block of the DSG. Top-ups for special schools are allocated and agreed locally. At present Haringey only has one band of top-up to Special schools so the amount of money allocated from the High Needs Block to support children in special schools is based not on needs of the child but on the type of school they are attending.

4.5. The SEND top-up funding for Early Years is applied for by settings when they identify a child with additional needs. Currently the setting can apply for either medium or high top up funding which is paid at a different rate per hour. The Local Authority has a number of commissioned SEND places for Early Years in the Nursery Schools, LA maintained Children's Centres and Broadwater Farm which are for high needs children and paid at a higher rate than the high top up funded children. As part of our Early Years Strategy, we are reviewing all the funding rates to ensure that the process is equitable and fair for all children in Haringey.

4.4 Haringey Council is part of the Safety Valve Programme which is a transformation programme 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, with 18 projects designed to firstly, improve outcomes for children and young people with SEND and secondly, deliver services within a balanced budget. If successful, this will reduce the projected deficit of £80m to £30m and draw down additional funding of £30m

to clear the projected deficit. As of 1 April 2023, the deficit was £23.8m. Based on the strength of, and confidence in the proposals within our plan, Haringey has received £11.96m to date which has reduced the cumulative deficit to £11.8m. As of December 2023, Haringey is reporting an in year overspend of £2.22m which is within the financial target set for 2023-2024 and is forecasting cumulative surplus of £0.1m by 2027/28. Haringey has successfully drawn down a further £2m for 2023-2024 which is 66% of the funding available to date within this year. It is anticipated that we will draw down 100% of the funding to offset against the accumulative deficit as per our agreed Safety Valve plan for this financial year.

4.5 As part of the conditions of participation within the Safety Valve programme Haringey council have committed to review their bandings and top-up allocations to ensure that these are fair, open and transparent and calculated within the existing budget allocated to the Council to meet such needs.

4.6 Accordingly, 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.

4.7 Appendix Four 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 three 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 people's 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 bands is 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. The methodology for this calculation and oversight of this is via a Stakeholder Steering Group of schools, Local Authority SEND Leads and Haringey SEND Power (Parent Carer Forum), this will be repeated annually. It is not anticipated that any school will be disadvantaged by this methodology, but should schools receive lower funding than previous years the Local Authority will work with the Head and school business managers to understand risks and make mitigation for this. The intention is to provide a fairer distribution of resources, and also create resources to support the Local Authority's intention to provide early intervention and support.
- e) Bandings and top-ups will be reviewed at each child's SEN or EHCP annual review, in accordance with the SEND Code of Practice and Children and Families Act 2014.
- f) The amount of money allocated to each child (Top-Up funding) will be agreed by Haringey SEND Panel based on considering the evidence and recommendations of the parents, Special Education Needs and Disability Co-ordinator (SENDCO) and specialist education professionals who are responsible for supporting the child or young person.
- g) During the current 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 an EHCP audit. 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 further moderation following an Annual Review.

4.9 These policy changes were subject to public consultation via an on-line consultation form published on the Haringey SEND Local Offer website for a period of 8 weeks to ensure that families, schools and other parties have sufficient time to respond to the proposed changes. The consultation ran from 5th October until 1st December 2023.

4.10 The consultation, whilst not a statutory duty, was 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. Appendix Three: Bandings and Top Ups Consultation Report describes in detail the work which took place to undertake the consultation and the responses

recorded via the web-pages. The consultation responses indicated broad agreement with the proposed changes with some useful suggested amendments and indicated that SEND consultations, whilst offering an outlet for expressing wider discontent in the system also offer a useful opportunity for the Local Authority to ensure that it has access to wider opinions and a chance to develop good practice informed by both practitioners, parents and carers.

4.11 Consultation responses were mainly received from parents and carers of children and young people with SEND with some comments from practitioners. A summary of the key responses are outlined below. Refer to: Appendix Three: Bandings and Top Ups Consultation

feedback and responses. As a result of the responses to consultation amendments have been made to the original Bandings Framework.

4.12 For ease they are marked in red on Appendix Five and Six (Proposed Bandings) A summary of the key responses are outlined below.

- a) Recognition of the wider SEND improvement agenda of which these Bandings form a part.
- b) Inclusion of the importance of impact as well as severity of Hearing Loss in determining children's needs in this area.
- c) Recognition and consideration of the impact of 'masking' behaviours for children with social communication difficulties.
- d) Recognition of the interface between the Early Years Bandings (Which apply to children in earlier stages of their development assessed by their good levels of development) and the school-age Bandings which assess older children's ability to function within a school-based learning environment and achievements in relation to the National Curriculum (including entry-level learning).

4.13 EHCPs will continue to clearly outline in detail, the provision required for children and young people with sufficient flexibility to meet individual and assessed needs which will be monitored through the statutory annual review process.

4.14 The financial envelope for the High Needs Block Grant is based on a national formula based on pupil numbers. Funding allocations to the bandings are agreed by [the Schools' Forum](#). Where schools may be adversely affected financially as a result of the new bandings, financial modelling support will be provided by Haringey Schools Finance to Schools to [assess](#) the impact of any changes and any options to minimise impact. This may include adopting a phased incremental approach and/ or a review of pupil numbers.

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. This option is not sustainable and requires review in the context of the Safety Valve programme.

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. Moreover, 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. Therefore, 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 EHCP's per school.

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 informing 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.

6.4 Moreover, the stakeholder steering group has been supported by a series of wider stakeholder groups and meetings including 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 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 Four: Proposed Early Years Bandings and Appendix Five: Proposed SEND Bandings for School aged children and young people). During Autumn term 2023 every school in Haringey was trained in the new Bandings formulation and applied an Audit to understand the impact of the new Bandings.

6.6 For the early years banding model, early years settings have been involved in a series of working groups which have met throughout the academic year 22/23 and are scheduled for 23/24 with the new modelling based on the proposed new Bandings being tested in all the settings represented at the Early Years Banding and Top-Up Steering Groups.

6.7 The proposed new Bandings indicated the range and complexity of children with SEND in Haringey schools and in general were welcomed by schools and settings as providing more detailed understanding of children's needs, with the child's overall Banding being allocated according to the highest needs recorded.

6.8 The Bandings and Top-ups work have 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.
- b) **Fairness:** There should be recognition that the high needs block allocation for Haringey is finite, and that decisions about funding in one area affect resources available to another. 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, ensuring that the LA meets its statutory duty to secure provision within section F of a child and young person's EHCP.
- 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.

7. Contribution to the Corporate Delivery Plan 2022 – 2024 High Level Strategic Outcomes

7.1 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 There are no implications as a result of this decision.

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

Finance

9.1 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.

9.2 The Council, in accordance with the Safety valve agreement must reduce overall spend from the Dedicated Schools Grant by £47.8m over the 5 years of the programme of which

£10.1m will be delivered from realigning SEND Bandings and Top-ups.

9.3 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 Dedicated Schools Grant and breach of the Safety valve conditions.

Procurement

9.4 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.

9.5 The support for children and young people with SEND is set out in Part 3 of the Children and Families Act 2014 and in statutory guidance Special Educational Needs and Disability Code of Practice. There is nothing in the legislation, SEND Regulations, or the SEND Code of Practice which prevents local authorities from administering high needs SEN funding through a system of bandings.

9.6 Section 42 of the Children and Families Act 2014 provides that a local authority must secure the provision identified in an EHC plan. The local authority must therefore ensure that the funding provided for each child within an EHC plan is sufficient to meet the special educational needs specified in section F of a child or young person's plan. The bandings must offer flexibility to officers to increase the allocated level, if necessary, to fund additional provision above the allocated band.

9.7 The local authority has conducted an 8-week consultation exercise the results of which is contained in the cabinet report and appendices. Cabinet should give due regard to the responses to the consultation before considering the recommendations contain in this report.

Equality

9.8 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.
- c) foster good relations between people who share those characteristics and people who do not.

9.9 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.

9.10 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic

9.11 The proposed decision is to approve the proposed changes to the current SEND Bandings and Top-ups and monitor the changes via the Haringey SEND Executive.

This will affect all children and young people with SEND and Schools and early years settings in Haringey.

9.12 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. A full Equalities Impact Assessment (EQIA) was conducted and showed that boys and people from Black, Black British or Caribbean ethnic groups are overrepresented in the SEND population. 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).

8.13 This will lead to better access, early intervention and support for children, young people and adults with disabilities – including those with protected characteristics overrepresented in the SEND population – 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.

8.14 Where schools may be adversely affected financially as a result of the new bandings, financial modelling support will be provided by Haringey Schools Finance to Schools to assess the impact of any changes and options to minimise impact.

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

8.16 A full equalities impact assessment has been completed 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. Refer to [Appendix Seven: Equalities Impact Assessment](#). The Council will continue 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: Bandings and Top Ups consultation report

Appendix Four: Summary of Top Ups and bandings consultation feedback and responses

Appendix Five: Proposed Early Years Inclusion Banding Descriptors

Appendix Six: Proposed SEND Bandings for school aged children and young people

Appendix Seven: Equalities Impact Assessment

11. Local Government (Access to Information) Act 1985 - Not applicable