

## High Needs Consultation questions

### Question 1

The historic spend factor in the high needs national funding formula is the main proxy we currently use for local circumstances that can significantly affect local authorities' levels of spending on high needs, and that take time to change. This formula lump sum is calculated using 50% of each local authority's planned expenditure on high needs in 2017-18, reported by local authorities.

We now have access to actual spending data from 2017-18. We therefore propose replacing the current lump sum included in the formula calculation with an amount calculated on the basis of actual expenditure in 2017-18, as reported by each local authority.

Before answering the question below, please read section 3 of the consultation document. Annex B to that document includes further information, and for each local authority the lump sum amount that we propose to use.

Do you agree that we should replace the current lump sum included in the formula calculation with an amount calculated on the basis of actual local authority expenditure, as reported by each local authority?

Agree  Disagree  Unsure

Please provide any additional comments:

Actual spending data is a better reflection on expenditure patterns than using budgeted expenditure figures.

Nationally this would mean that the amount attributable to this factor would increase and would therefore have to be funded through decreases in other factor areas or attributing any future growth in the overall pot to this factor.

Moreover, funding protection would kick in where appropriate in any case to level this out so the impact would be minimal in a lot of cases overall.

## Question 2

The historic spend element of the high needs national funding formula has remained at a cash-flat level since the introduction of the national formula in 2018-19, moving from 44% of the overall formula funding in 2018-19 to 34% in the 2021-22 formula as that total funding has increased. Some local authorities may not have been able to change their spending patterns to keep pace with the percentage reduction in this factor, despite the protection afforded by the funding floor minimum increase of 8% this and next year. We are therefore considering whether to increase the proportion of funding allocated through this factor, alongside using actual expenditure amounts.

Using actual expenditure from a more recent year, and leaving the percentage at 50%, would increase the amount of the lump sum, but we are not proposing to do this as we are clear that local authorities' actual spending now or in future should not determine how much funding they receive. We could, however, increase the significance of this factor in the 2022-23 formula, by increasing the percentage of 2017-18 spending that is applied, allowing for a more gradual rate of change in the local pattern of spending.

Before answering the question below, please read section 3 of the consultation document.

Do you think that we should increase the percentage of actual expenditure in 2017-18 included in the funding formula calculation, or leave it at 50%? Use the comments box to propose a particular increase or reduction in the percentage.

Increase the percentage  Keep the percentage at 50%  Decrease the percentage  Unsure or other

Comments:

Increasing the percentage to 60% would give authorities like Bromley more certainty over the funding in the coming years. However, this, much like the first question, would need to be funded from either a decrease in other factors or future growth being attributed to this area in the first instance.

Moreover, funding protection would kick in where appropriate in any case to level this out so the impact would be minimal in a lot of cases overall.

### Question 3

We are aware that the continued use of historic spend is not the perfect long term solution for reflecting the patterns of local demand and supply that affect spending on high needs, as those patterns will naturally change over time. As part of the funding formula review that we are carrying out, and for consideration as we develop that formula in the years after 2022-23, we are therefore seeking views on potential alternatives to the historic spend factor. Any new factors would need to be appropriate for a funding formula (e.g. the data used should be collected on a consistent basis) and would also need to avoid creating a perverse incentive (e.g. to spend more on a certain type of provision so as to gain more funding, rather than to improve the quality or appropriateness of provision).

Before answering the question below, please refer to section 3 of the consultation document.

To what extent do you agree that the funding formula should include factors that reflect historical local demand for and supply of SEND and AP provision? If you have any suggestions for such factors that could eventually replace the historic spend factor, please provide these in the comments box.

Strongly agree  Agree  Neither agree nor disagree  Disagree  Strongly disagree

Comments:

Would not want to use EHCP's or current spend as this would be a perverse incentive. Anything that rewards spending should be discouraged.

In terms of whether the funding formula should include factors that reflect historical local demand for and supply of SEND and AP provision – does the Forum have a view?

#### **Question 4**

The high needs national funding formula uses low attainment at both key stage 2 and key stage 4 as a proxy indicator for SEND. This figure is calculated using an average of results over the most recent 5 years of tests and exams, which for the 2022-23 formula would have meant using test and exam results from 2016 to 2020. Due to the COVID-19 pandemic, the 2020 key stage 2 tests and GCSE exams were cancelled. This has resulted in no key stage 2 data, and GCSE data that would be inappropriate to use because of the inconsistencies with the results from previous years.

We have considered using the same data as used to calculate last year's attainment formula factors, but this would mean data from more than 5 years ago. Instead, we propose to calculate low attainment by using data from 2016 to 2019, but then to double the weighting of the most recent exam data from 2019. This method could be used for a further year, assuming the 2021 test and exam results are also not able to be used for this purpose.

Please refer to section 4 of the consultation document before answering the following question.

Do you agree with our proposal to update the low attainment factors using data from 2016, and to substitute the most recent 2019 data in place of the missing 2020 attainment data?

Agree  Disagree – calculate in the same way as last year  Disagree – other (please provide further details in the comments)  Unsure

Comments:

It seems a sensible approach if this factor is going to continue to be used. It will negate any outlying data sets that may occur

## Question 5

The high needs national funding formula uses six indicators which together act as a proxy for the level of more complex SEND, and need for alternative provision (AP) in an area. These indicators include: a measure of the local population of children and young people, the two low attainment measures (key stage 2 and key stage 4) referred to in question 4, two health and disability measures (the number of children in bad health and the number of families in receipt of disability living allowance), and two deprivation indicators (the number of children eligible for free school meals and a local area deprivation measure).

Numbers of EHC plans are not be used as a robust indicator of underlying need because the way they are used varies considerably across local areas, and the number of plans is therefore not necessarily directly associated with the local authority's need to spend. The ongoing SEND review is considering whether system changes are needed, to provide more consistency in EHC needs assessment and planning process, and to improve other aspects of the SEND arrangements.

Following the SEND review, we will consider whether consequent changes to these proxies that we use in the funding formula, as well as other funding changes, would be appropriate, as it is important that the proxies used support local authorities to deliver the outcomes of the review. At this stage we are keen to understand whether there are new factors either that could replace existing factors that have become out of date or otherwise unreliable, or that could be added to the formula to address types or prevalence of identified need, and we would welcome views.

Please refer to section 5 of the consultation document before giving your comments.

If you wish to offer ideas on factors that could be added to the current formula, or that could replace the current proxies, please provide further details in the comments box below.

Please provide your answer in the box below:

The addition of the "Ever 6" proxy measure to the calculation for Free School Meals would provide a better/more robust measure of need in an LA. Using a longer period measure brings this proxy into alignment with other measures in the formula.

If we could only use one of the proxies, we would suggest Ever 6, but we feel the longer term plus snapshot (number of FSM) gives a more comprehensive measure of need in an LA.

## Question 6

Please provide any information that you consider we should take into account in assessing the equalities impact of the proposals for change. Before answering this question, please refer to Annex C of the consultation document.

Please provide your answer in the box below:

This consultation does not address the overall issue of funding, it is looking at tinkering around the edges of existing funding formulas. Whilst the use of alternative factors is pleasing, unfortunately it is not addressing the underfunding of this area as a whole.

Bromley without the funding protection and using the current factors available would lose a considerable amount of funding (about 13% or £7.5m worth of funding) if the funding factors alone were used. Clearly the funding formula is not addressing the fundamental flaws and not putting funding into the right places

Whilst the protection is welcomed there is always the threat that should the protection be removed, there would be a cliff edge of funding that would detrimentally affect the Council. Clearly our expenditure could not be held against the current formula funding levels only. Bromley is spending more each year on High Needs due to increasing numbers and complexity and the funding is not following to the same degree. Bromley needs assurances that adequate funding will follow the child and be sufficient for future needs without having to go into a deficit position.

In addition to the HNF formula, we strongly recommend that the SEN Notional Budget included in school's funding formula becomes ringfenced funding (not notional). We are increasingly facing challenge from schools that they do not receive the full £6k funding. By having the funding ringfenced, schools can be clear on the funding they receive to support children with SEN and will be accountable for evidencing their investment in this support.