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CHANGES IN FUNDING FOR EARLY YEARS EDUCATION IN ENGLAND (2-4 YEARS)

INTERIM UPDATE

This briefing note updates, but does not replace, the NatSIP briefing note *Education Provision and Funding for Children with Sensory Impairment in the Early Years* (March 2015).¹

The statutory provisions providing the context for SEND provision in the early years outlined in the March 2015 briefing note remain unchanged. The purpose of this briefing note is to outline the main reforms to early years funding issued by the DfE in December 2016.

We plan to issue a further update once the DfE has provided further advice on how the new Disability Access Fund and EY Inclusion Fund (described in section 4 below) will work alongside the existing High Needs Block and EY pupil premium to meet additional needs.

Introduction

In December 2016 the Government issued proposals for funding early years (EY) provision.² The main focus is on:

- a) a national formula for distributing EY funding to local authorities
- b) ensuring providers receive a funding rate sufficient to deliver existing entitlements to EY education and the extended entitlement of 30 hours for children of eligible working parents
- c) new conditions on how LAs use their EY funding allocation.

There are also changes to funding children with SEND. This briefing note describes the main changes giving more detail on the SEND proposals.

¹ <https://www.natsip.org.uk/index.php/doc-library-login/natsip-briefing-documents-and-papers/funding-briefings/888-education-funding-and-provision-for-children-with-si-in-the-early-years>

² Set out in DfE publications (i) *EY Funding – Government consultation response* and *EY National Funding Formula and (ii) EY National funding Formula – Operational Guide*. See: <https://www.gov.uk/government/consultations/early-years-funding-changes-to-funding-for-3-and-4-year-olds> and <https://www.gov.uk/government/publications/early-years-national-funding-formula-allocations-and-guidance>

1. Funding to Local Authorities

Key points:

- The national average hourly funding³ rate increases from £4.56 to £4.94⁴ for 3 and 4 year olds. This includes the Early Years Pupil Premium and Disability Access Funding.
- Funding for the most disadvantaged two year olds is already allocated to LAs on a fair formula basis and therefore was not covered in the Government's consultation proposals earlier in 2016. However, the DfE will increase the national average hourly rate for two year olds from £5.09 to £5.39.
- A new EY national funding formula (NFF) will allocate funding to local authorities for the existing 15 hour entitlement for all 3 and 4 year olds and the additional 15 hours per week for children of eligible working parents. This will replace the existing historic allocation to LAs.
- The NFF consists of a universal base rate accounting for 89.5% of the total allocation and an uplift for additional needs based on measures of free school meals, Disability Living Allowance (DLA) and English as an Additional Language. The formula also includes an area cost adjustment.
- The formula includes a minimum hourly funding rate of £4.30 for LAs.
- 80% of LAs will see an increase in hourly rates and no LA will experience a reduction of more than 5% in a year and no more than 10% in total by 2019-20. All LAs will be fully funded by the NFF by 2019-20.

2. Funding from LAs to Providers

Key points:

- The Government thinks some LAs hold back too much money for central services. It is capping the amount of EY funding LAs can retain centrally. A minimum of 93% of an LA's allocation will need to be passed directly to providers in 2017-18, rising to 95% by 2018-19.⁵ Funding for SEN inclusion top-up rates counts towards the 93% and 95% pass-through rate (see Appendix). Any funding from the Early Years Block which is used to fund specialist SEND support services will be counted within the amount held centrally. This could have implications for LAs who may use a significant proportion of their EY allocation to fund specialist SEND support services. The DfE is prepared to consider representations if the cap is causing particular difficulties (see below).

³ Please note these are national averages and the rate will vary between LAs and between providers in the same LA area

⁴ The DfE Early Years National Funding Formula Technical Note (see

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/574015/EYNFF_technical_note.pdf)

states that the average national hourly funding rate for 3 and 4 year olds is £4.88 made up of: (i) An EYNFF average hourly rate of £4.72; (ii) Early Years Pupil Premium £0.05; (iii) additional allocation for maintained nursery schools £0.09; (iv) An amount for quality and expertise £0.01; (v) An amount for the disability access fund of £0.02. An additional £30 million has been allocated to finance the Government commitment that every LA will receive a minimum funding rate of £4.30 per hour. This additional amount takes the final national average hourly rate to £4.94

Note: NatSIP observes that £4.72 + £0.05 + £0.09 + 0.01 + £0.02 = £4.89, not £4.88 as stated above. We have queried what we assume is a rounding issue with the DfE. Meanwhile we cite above the figures as they are printed in the technical note.

⁵ The median central spend for 3 and 4 year olds in 2015/16 was 5% and the mean was 6%

- LAs will be able to set their own formula for allocating funding to providers, but by 2019-20 they must allocate 90% using the universal base rate. This will ensure different types of providers receive the same level of funding (e.g. a child in a private or voluntary setting would receive the same basic level of per child funding as a child in a nursery class in a primary school). 10% of an LA's allocation can be used to fund supplements for deprivation (which is the one mandatory supplement) and there are discretionary supplements for rurality, flexibility of provision, quality and EAL.
- £55 million per annum will be made available to enable LAs to protect funding for maintained nursery schools to provide stability of funding and to recognise they have additional specific statutory responsibilities, such as delivering teacher-led provision.

3. Meeting Children's Additional Needs

Key points:

- The EY pupil premium will continue at £0.53 per hour.
- There will be a new Disability Access Fund (DAF) of £615.00 per annum per child per setting to support access to free entitlements. This fund will be for 3- and 4-year-olds who are taking up their free entitlement and are in receipt of Disability Living Allowance (DLA).
- The Government will legislate for every area to set up a local Inclusion Fund for children with SEND.

4. The Disability Access Fund

Key points:

- The DfE recognises the drawbacks of using DLA, but feels there are no better alternatives. For deaf children it is increasingly difficult to get DLA; and the number of parents asking for help from NDCS has increased substantially over the past two years. Over 85% of the cases referred to Tribunal result in an award.⁶
- The Government has allocated £12.5million for DAF. This is a very small percentage of the addition billion of funding the Government is making available for early education. It equates to £0.02 of the national hourly rate.
- The settings for the 3- or 4-year-olds eligible for DAF will receive a payment of £615.00 per year per eligible child.
- 4-year-olds in the reception year of primary schools will not be entitled to DAF.
- Disabled children aged 2 who are entitled to a place in an EY setting will not be entitled to DAF.
- Children do not have to take up the full 570 hours of early education they are entitled to in order to receive the DAF.
- The DAF funding each LA receives is based on February 2016 data from the Department of Work and Pensions.
- The DAF should not be offset against any other funding which an authority may ordinarily be providing for children eligible for DAF.
- The DAF is payable as a lump sum once a year per eligible child. If the parents of the child are splitting their free entitlement across two or more providers, LAs should ask parents to nominate the main setting. This is where LAs should pay the DAF for the child.

5. SEN Inclusion Fund

All LAs will be required to establish this fund for 3- and 4-year-olds building on good practice already established in many areas. This requirement is intended to help address the issues identified in the DfE report, *Research on funding for young people with special educational needs* (paras 8.10-8.16, July 2015).⁷ LAs are encouraged to apply this to 2-year-olds but it won't be a requirement of regulations applying to the early years.⁸

LAs in consultation with EY providers, parents and SEN specialists, will be responsible for deciding for which children the SEN inclusion fund will be used. The DfE advises that this should be focussed on children with lower-level or emerging SEN, since those with more complex SEN (broadly, those with EHC Plans) should receive funding through the LA's High Needs Block of funding. Such an approach would be consistent with implementing a core principle in the SEND Code of Practice⁹ regarding *the early identification of children & young people's needs and early intervention to meet them*.

⁶ NDCS advice to parents on DLA can be found on the family support pages of its website:
http://www.ndcs.org.uk/family_support/financial_support/disability_living_allowance_dla

⁷ <https://www.gov.uk/government/publications/funding-for-young-people-with-special-educational-needs>

⁸ This would be still subject to the requirements of the Equality Act 2010 and Children and Families Act 2014

⁹ See Section 1.2, page 19:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf

LAs can decide:

- the amount of money they put into the fund, which can be financed from their early education funding, high needs funding or both
- how the funding will be allocated to providers.

These decisions should be taken after discussions with providers on

the level of SEN support which will be offered, bearing in mind the number of SEN children in the local area, their level of need, the capacity of their EY market to support these children without a call on additional resource and the appropriate balance of funding between the SEN Inclusion Fund and the universal base rate.¹⁰

LAs will be required to publish as part of their Local Offer:

- a) details of their eligibility criteria
- b) the planned value of the fund at the start of the year
- c) the process for allocating funding to providers.

Unlike schools, EY settings continue not to have a 'notional SEN budget'. There is no national requirement for them to contribute a given sum towards meeting the additional needs of a child from their formula budget as there is for schools.

LAs are expected to pass on most of the inclusion funding in the form of top-up grants to providers and this will count towards the 93%-95% pass through/delegation requirement. The inclusion fund can also be used to support specialist services, but funding for this purpose will not count towards the 93%-95% pass through requirement. (However, if the top-up payment to EY providers includes a sum to buy the services of a ToD, it would probably count towards the pass through requirement).

6. Disapplication from the Funding Regulations and SEND support services

LAs are able to apply for a disapplication of the cap on central spending in certain circumstances. With regard to the need to maintain SEN support services, the DfE guidance helpfully states that LAs must present evidence that

[...] disapplication is essential to avoid a significant overall reduction in the level of specialist early years SEND services offered to providers free or on a subsidised basis. Such evidence might include a description and costings of current services, an assessment of how these might need to be constrained by the high pass-through requirement. Evidence should also be provided on why it is not possible for providers to obtain such services on a buy-back model.¹¹

¹⁰ DfE EY National Funding Formula – Operational Guide Dec 2016 *op cit*

¹¹ *ibid*

7. Conclusions

It is most unlikely that the additional funding of £12.5 million for the DAF will be sufficient to fund the pressures on LA SEND budgets resulting from the increased entitlement to 30 hours of provision and the increase in the number of children.

It is also unlikely that EY providers will gain from the £615 DAF grant as LAs will take this into account when calculating the top up funding available from its inclusion fund.

In addition, the 93%-95% pass through requirements combined with the need to maintain an acceptable universal hourly rate could constrain the ability of LAs to provide EY specialist support services and make top up payments. However, LAs may apply for a disapplication of the rules if they can make a strong case. This would be helped by robust evidence on the impact of specialist support on outcomes and evidence of support from EY providers of the need for specialist help.

The requirement to set up an EY inclusion fund is welcomed. However, many LAs have already established EY inclusion funds to provide top up for early years providers, so it is uncertain what the overall impact of this requirement will be. The DfE advice that it should be for lower levels of SEN is welcomed, and the legislation will prompt LAs to review their approach as part of the Local Offer. Hence, such a review will require the engagement and participation of parents, as stipulated in the SEND Code of Practice.¹²

¹² <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

Appendix - Calculation of pass-through rate

The Government has stipulated that 93% of the early years funding allocation for 3- to 4-year-olds is passed directly to EY providers in 2017-18. This rises to 95% in 2018-19.

The DfE's Operational Guidance sets out how this pass-through rate is calculated:

- A = Section 251 funding quantum for 3-and 4-year olds on planned base rate (including funding to maintained nursery schools (MNS), maintained nursery schools lump sums , all supplements (including funding to MNS), SEN Inclusion Fund top up grants, contingency fund.
- B: = DfE quantum allocation to local authority of MNS supplementary funding (published alongside Government response)
- C = s251 planned base hours for three-and four-year olds (including hours through MNS)
- D = equivalent average rate to providers for three-and four-year old entitlement hours
 $D = (A-B) / C$
- E = LA EYNFF hourly rate for three-and four-year olds
(published alongside Government response, or in DSG tables in future)
- F = The pass-through rate:
 $F = (D / E) * 100$ to give an answer in %

A local authority will be considered meeting the requirement if:

- $F \geq 93\%$ (in 2017-18)
- $F \geq 95\%$ (from 2018-19).

-- End --