

National Sensory Impairment Partnership

Guidance on funding specialist support services, early years services and post 16



Date: May 2017 (updated July 2017)

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QUESTIONS ON: DOUBLE-FUNDING OF SEN SUPPORT, EARLY YEARS FUNDING, POST-16 FUNDING

Introduction

Questions about funding of educational support for children and young people with sensory impairment (SI) were raised by Heads of SI Services on their email forum during May 2017. Brian Gale, the Special Education Consortium representative on the DfE's Schools and Academy Funding Group, responded with a series of answers which have been compiled below.

Although the questions cover support of school-aged pupils, early years children and post-16 students, they all relate to what funding has been included in the High Needs Block and how this funding can be used.

Q1. Has there been double funding of Specialist SEN Support Services?

A. This question was raised because some LAs have suggested that funding has been already delegated to schools for SEN support services and therefore funding the services centrally constitutes double funding. Some LAs are then using this as a justification for charging schools for services.

This suggestion is misleading and to understand why the suggestion is incorrect, it is necessary to consider how specialist sensory support services have been funded by local authorities prior to the DfE establishing the High Needs Block (HNB) and what elements of local authority spending was included in the HNB when it was constructed.

As SI professionals are aware, virtually all sensory support services have operated under a model of centrally-funded services for 0-16 year olds.¹ Services were provided at no charge to under-twos and all educational establishments for children with SI irrespective of:

- whether they had a statement/EHC Plan
- the type of school they attended.

This position was challenged by the academy programme and the introduction of the Local Authority Central Spend Equivalent Grant (LACSEG) which was used to determine how much of the education funding centrally held by local authorities would be delegated to academies. For a period, the budget for SEN support services, including sensory impairment, was included in the LACSEG. This meant an academy school would receive a share of the budget for SI services irrespective of whether they had pupils with sensory impairment on their roll.

This arrangement for funding academies was successfully challenged in the House of Lords during the passage of the Academies Act 2010, and as a result LAs were able to retain centrally funding for all SEN support services including sensory impairment.

¹ For post-16, the model was more mixed with services being provided to FE colleges on a traded basis reflecting that until 2010 the Learning and Skills Council had responsibility for the commissioning and funding of provision for students in FE including those with learning difficulties.

Details of the changes to LACSEG and the formulation of the High Needs Block are given in a DfE briefing on financial arrangements for 2013/14 available on the DfE website.² The relevant extract from the DfE webpage is also attached as an appendix.

This shows that in 2013/14 the current spending by local authorities on sensory support services was included in the High Needs Block allocation for each LA. The DfE transferred all of the funding to the High Needs Block.³ It did not disaggregate the budgets and put that element relating to children with statements into the High Needs Block and that element related to children without statements into the Schools Block (delegated school budgets). All of the funding for supporting all children with sensory impairment was included in the High Needs Block.⁴ This was reflected in the funding guidance.⁵ The appendix clearly shows that the DfE had taken steps to eliminate double funding.

There was a short period where there *was* double funding, in that academies were receiving funding for SEN support services as well as local authorities. This was ceased and the funding academies previously received for SEN support services was deducted in their budgets.

There has been no change to this arrangement since 2013/14. Early Years and School Finance Regulations allow LAs to spend on SEN support services to provide a continuum of support for children with sensory impairment.

Such an arrangement is consistent with:

- Section 22 of the Children and Families Act. A Local Authority **must** identify **all** children and young people with SEN or a disability
- Section 24 of the Children and Families Act. An LA is **responsible** for a child or YP identified by the LA as having SEND (or who **may** have SEN) brought to the LA's attention by **any person** as someone who has or **may** have SEN.

Hence, there is no evidence of schools or early years settings being double funded. For a local authority to justify for example that schools have the money to pay for specialist support services for pupils without statutory plans, it would have to show that funding has been delegated from the High Needs Block to schools. NatSIP is unaware of any local authority doing this since the High Needs Block was established by the DfE. Indeed, the DfE has reported that over the period 2013/14 to 2016/17, just over 75% of local authorities took over £300m from the Schools Block to add to the HNB.

Any suggestion that schools have received funding for specialist support services and therefore should be required to pay for the services because of this is misleading and ignores the fact that the DfE included all of the funding in the High Needs Block for these services.⁶

² See <http://webarchive.nationalarchives.gov.uk/20130103071915/http://education.gov.uk/b00204848/academy-funding/lacseg-201314>

³ Please note that some LAs may have funded some or all of the support provided to pre-school aged children 0-4 from its early years budgets. If this was the case this funding probably remained in the centrally funded Early Years Block.

⁴ But see footnote 3.

⁵ See (see paras 64-66 of the DfE's revenue funding arrangement guidance for 2014/15: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224728/2014-15_Revenue_Funding_Operational_guidance.pdf)

⁶ NatSIP Briefing Note *Changes in Funding for Early Years Education in England*

See: <https://www.natsip.org.uk/index.php/doc-library-login/natsip-briefing-documents-and-papers/funding-briefings>

Q2. Should funding for specialist support for children with SI in the early years come from the High Needs Block or Early Years Block? Is there a difference between funding CYP with SI in the early years educated in their homes or those attending early years settings?

A. The arrangements for funding specialist early years support still depend on the approach and policy adopted by each local authority (LA), with some deciding to fund an element of the support service for babies and young children from the early years budget (Early Years Block or EYB).

At the time of these changes in 2013/14, NatSIP took a straw poll of LAs asking about arrangements for funding specialist support services for children in the early years (i.e from birth onwards). This showed a mixed picture, with some LAs funding this from the Early Years Block, some from the High Needs Block, and some from a mixture of both. It is quite possible for the source of funding to change from year to year. For example, if all of a service is funded from the HNB but this block is coming under financial pressure, the accountants may decide to use the Early Years Block to fund an element of specialist support of children in the early years providing there is sufficient headroom in the EYB to do this. So not all funding for all SEN support services will be located in the High Needs Block in all local authorities. Some LAs may still continue to fund early years support from the Early Years Block and this is recognised in the recent guidance from the government on early years funding.⁷

Hence it is acceptable for all EY support to be solely funded by the HNB. It is also acceptable to meet the needs of children with SI in the early years from the EYB.⁸ However, it can be seen from the NatSIP briefing note on EY funding that there is a limit on how much of the EY Block LAs can retain/hold back for centrally funded services.⁹

The funding regulations make no distinction between supporting young children in the home and in early years settings. Funding to support young children with SEND in the home and in early years settings can come from either the HNB or the Early Years Block.

Q3. Post 16: Does funding for specialist support for 16-19 year olds in Further Education come from the HNB?

A. The funding arrangements depend on whether the young person is on an apprenticeship or only in education.

For apprentices

If the student is an apprentice, then funding is through a different route and does not come from the HNB.

The Education and Skills Funding Agency (ESFA) provides additional learning support funding for apprentices to help with learning that affects their ability to continue and complete their apprenticeship. To meet the extra cost of meeting additional needs, the provider receives a payment of £150 per month from the ESFA. This is for any apprentice who requires additional support from the ESFA. If identified needs cost more than the monthly rate, the provider can claim additional funding (up to £19,000) from the Skills Funding Agency on the Earnings Adjustment Statement. This means that the costs are fully funded at no cost to the provider, and are met by the ESFA. Should costs exceed £19,000 then the provider can apply to the ESFA for exceptional learning support. If agreed, the ESFA meets these costs and these are paid to the provider via the ESFA. To obtain the funding, the training provider must:

⁷ See the NatSIP Briefing Note *Changes in Funding for Early Years Education in England* See:

<https://www.natsip.org.uk/index.php/doc-library-login/natsip-briefing-documents-and-papers/funding-briefings>

⁸ See: <https://www.gov.uk/government/publications/early-years-national-funding-formula-allocations-and-guidance>

⁹ See: <https://www.natsip.org.uk/index.php/doc-library-login/natsip-briefing-documents-and-papers/funding-briefings>

- a) carry out a thorough assessment to identify the support the apprentice needs
- b) agree and record the outcome of the assessment in the learner file
- c) deliver support to meet the apprentice's identified needs, and review progress and continuing needs, as appropriate
- d) record all outcomes in the learner file and keep evidence of the assessment of the needs
- e) report in the Individualised Learner Record that an apprentice has a learning support need associated with an identified learning aim.

Under these arrangements the training provider may pay a sensory support specialist to undertake a specialist assessment and claim funding from the ESFA. If the assessment shows the student requires specialist support or equipment this can be funded by the ESFA. Please note that in the case of apprentices, no distinction is made between high and low levels of need. Hence, apprentices provide a trading opportunity for sensory support services. NatSIP has published a briefing paper on additional funding for young people with sensory impairment in apprenticeships.¹⁰

Funding of specialist support services for 16-19-year-old students in FE who are not apprentices

To consider this issue it is helpful to look at how support for post-16 students has been funded in the past. Until 2010, LAs did not have any statutory responsibility for post-16 students in FE. Most LAs therefore either provided sensory services on a traded basis or not at all with colleges making their own in-house provision. Prior to LAs being given responsibility for post-16 SEN, colleges received funding directly from the government for students with Learning Difficulty Assessments. These assessments, normally undertaken by Connexions services, could determine the funding the college would receive for specialist support for the student. Colleges also received funding for disadvantage to help meet the needs of students with lower levels of need. The college had an option of buying specialist support from the LA's specialist service or making in-house provision. The Apprenticeship, Skills, Children and Learning Act 2009¹¹ transferred from the Learning and Skills Council to LAs the responsibility for commissioning provision for students with learning difficulties as well as their assessment. This took effect in April 2010.

The transfer of responsibility for students with high needs from the government to LAs has been accompanied by a transfer of funding which now falls within the High Needs Block. This would have included an element for specialist support identified in Learning Difficulty Assessments. Hence, some local authorities have sustained the arrangement where an element of the funding FE and sixth form colleges receive from the local authority for high needs students is to pay for specialist support. Where the student has an EHC Plan, specialist support (including equipment) is included in the special education provision section (section F) of the Plan clearly showing how that support contributes towards the steps necessary to achieve the student's outcomes. This support is then provided to the students by the sensory support service on a traded basis and a Service Level Agreement specifying the service to be provided and terms and conditions is agreed with the college. It is therefore important for services to be involved in 14+ transition arrangements so that the need for specialist support is clearly identified and included in the student's plan for post-16 education

A NatSIP straw poll of arrangements for supporting post-16 high needs students in 2013 indicated that the Apprenticeship, Skills, Children and Learning Act 2009 had little impact on LA practice. Most LAs either continued to provide services on a traded basis drawing on funding allocated through the Learning

¹⁰ See <https://www.natsip.org.uk/index.php/natsip-documents/natsip-documents/natsip-briefing-documents-and-papers/funding-briefings/1098-additional-funding-for-yp-with-si-in-apprenticeships>

Please note that since this briefing note was written, SFA and EFA have been merged to form the Education and Skills Funding Agency, with effect from 1 April 2017.

¹¹ See <http://www.legislation.gov.uk/ukxi/2010/1080/contents/made>

Difficulty Assessment or not at all with colleges making their own in-house provision. Those who supported FE students from central funding on a non-traded basis were in the minority. Any such spending would have been included in the High Needs Block when it was constructed by the DfE.

However, what is much harder to track and identify is funding for specialist support services for post-16 students with lower levels of SEND. It is difficult to find an audit trail of any money being transferred from the government to LAs for support services for these students. LAs have the discretion to increase the size of specialist SEND services to support post-16 students with lower levels of SEND in colleges using the HNB. In some cases this has happened. However, in the current financial circumstances many LAs may struggle to do this. In these cases, services can provide the support for students on a traded basis or try to stretch existing staff across a wider age group to include post-16 students in college. In the case of school sixth forms, many LAs have historically provided specialist support services for students with high and lower levels of SEND and this spending was including in the High Needs Block. Hence this creates an anomaly between students in schools and students in colleges. This is one of a number of issues in post-16 SEND finance which the government's proposed review of post-16 funding needs to address.

In summary:

- Whether the specialist support is provided to students with **lower levels** of SEN from the HNB depends on the discretion and policy of each LA. Some LAs may fund the support centrally and some may not, leaving FE colleges to provide in-house support or buy in help using the delegated budget it has for 'disadvantage'. The local offer should set out what support is available for students with SI in FE colleges and clearly set out the respective responsibilities of the colleges and the LA.
- For students with high needs where the additional support cost exceeds £6,000, specialist support may be funded though the EHC Plan or an equivalent assessment of the provision required to meet needs.¹² Specialist support for students can be included in the provision identified by an assessment of need and funded centrally from the HNB.

Q4. Where does the continuity of support for post-19 students come from?

A. The funding arrangements depend upon whether the post-19 student has an EHC Plan or is an apprentice

a) post-19 Students with EHC Plans

The High Needs Block only funds post-19 students with EHC Plans. While it is possible for the HNB to fund high needs students aged 16-19 years irrespective of whether there is an EHC Plan, the funding regulations prohibit this for students over 19 years. Hence, it is critical that an EHC Plan is in place for any high needs students needing to continue in education beyond the age of 19 years. Students without an EHC Plan would no longer receive additional support from the HNB and may have to fund their courses themselves.

Section 8.5 of the DfE funding guidance for 2017/18¹³ sets out the arrangements for funding 19-25 year-olds with EHC Plans and what the LA can and cannot fund using the High Needs Block.

The DfE has not made any recent changes to the funding guidance and the HNB should fund the education of post-19 students **with** EHC Plans. However, in February 2017 the DfE published a guide for local authorities on supporting 19-25 year olds with SEND.¹⁴

¹² A high needs student is a student whose additional support needs cost more than £6,000. They do not have to have an EHC Plan to be funded as a high need student but a number of LAs have decided to equate high needs to an EHC Plan.

¹³ See <https://www.gov.uk/government/publications/high-needs-funding-arrangements-2017-to-2018/high-needs-funding-operational-guide-2017-to-2018>

¹⁴ See <https://www.gov.uk/government/publications/send-19-to-25-year-olds-entitlement-to-ehc-plans/send-19-to-25-year-olds-entitlement-to-ehc-plans>

In that guide there was the following sentence that has been challenged by some advocacy organisations:

Young people with SEND are not automatically entitled to maintain their EHC (education, health and care) plans after they turn 19.

This may have triggered an interpretation that it would be standard practice for EHC Plans to cease at the age 19 so that additional funding is not available for post-19 education provision. However, the legal test in s.45 Children and Families Act 2014 is one of necessity. The LA may only cease to maintain an EHC Plan if it is no longer necessary for the EHC Plan to be maintained.¹⁵ The IPSEA website¹⁶ provides a helpful commentary on this particular aspect of the DfE's guidance for colleagues who want more detail.

Post-19 students in apprenticeships

The funding arrangements for young people with sensory impairment in apprenticeships are set out in the section above.

Post-19 students with sensory impairment without EHC Plans and not on apprenticeships

Guidance on what support may be available is set out in the government publication *Adult Education Budget – Funding and Management Rules for 2017/18*¹⁷ and the government's website pages on Further Education Courses and Funding.¹⁸

Depending on the course and the individual circumstances of the student, they may have to pay a course fee. The Education and Skills Funding Agency will fund support for learners with learning difficulties or disabilities as set out in the Apprenticeships, Skills, Children and Learning Act 2009. It will fund learning and support as needed for individuals who declare a learning difficulty or disability or for whom the provider has identified a learning need.

Q5. Where does funding to support school-aged pupils with SI in private schools come from?

A. The local authority education grant allocation does not generally cover pupils attending public mainstream schools. Hence LAs do not have any obligation to support children with SI in public schools unless that school has been named in the pupil's EHC Plan. NatSIP is aware that some LAs have used discretion and allowed specialist teachers to visit the school to advise and provide support at no charge but many do not unless it is on a traded basis. NatSIP is currently updating guidance on this topic for a separate briefing note.

¹⁵ See <http://www.legislation.gov.uk/ukpga/2014/6/part/3/enacted>).

¹⁶ IPSEA (Independent Parental Special Education Advice) website. See <http://bit.ly/2IZSDcl>

¹⁷ See <https://www.gov.uk/government/publications/adult-education-budget-funding-and-performance-management-rules-2017-to-2018>

¹⁸ See <https://www.gov.uk/further-education-courses>

Appendix

Extract from DfE web archives¹⁹

Academy funding:

Replacing LACSEG from 2013/14 (Content of page 9 of 11)

From 2013/14, the Local Authority Central Spend Equivalent Grant (LACSEG) will be replaced in two ways. Schools Block LACSEG will cease to exist and local authority (LA) Block LACSEG will be replaced by the new Education Services Grant.

Schools Block LACSEG

Following changes to school funding arrangements, Schools Block LACSEG for academies will be replaced by additional money in the school budget share. This is because local authorities will be required to delegate the maximum amount of the Dedicated Schools Grant straight to academies through revised local funding formulae. 2012/13 Schools Block LACSEG will be included when the EFA calculate Minimum Funding Guarantee (MFG) protections in 2013/14.

LA Block LACSEG

LA Block LACSEG will be replaced by the Education Services Grant from 2013/14. This grant will be allocated on a simple, per-pupil basis to local authorities and academies according to the number of pupils for whom they are responsible.

For more details see the education services grant page.²⁰

Special educational needs (SEN) LACSEG

Currently, academies also receive a separate payment for specialist support services for all pupils on School Action and School Action Plus. This is calculated based on the amount that each local authority plans to spend on specialist SEN support services as reported in the section 251 budget statement and is paid as part of an academy's LACSEG allocation.

However, local authorities are required to provide these services on the same basis to all pupils in maintained schools and academies and so the money is not recouped from local authorities. This means that both academies and local authorities are funded for the same set of services. In order to remove this double funding from the system from 2013/14, academies will no longer receive a separate payment for specialist SEN support services. As under the current arrangements, all local authorities will be required to provide these services to pupils in academies on the same basis as pupils in maintained schools.

Local authorities will also be required to provide specialist SEN support services to pupils in Free Schools and non-recoupment academies on the same basis as maintained schools. We will make sure that those local authorities receive enough money in the 2013-14 Dedicated Schools Grant allocation for these additional pupils. This means that, as for all other academies, Free Schools and non-recoupment academies will cease to receive additional funding through LACSEG for specialist SEN support services.

¹⁹ <http://webarchive.nationalarchives.gov.uk/20130123124929/http://www.education.gov.uk/b00204848/academy-funding/lacseg-201314>

²⁰ <http://webarchive.nationalarchives.gov.uk/20130123124929/http://www.education.gov.uk/b00204848/academy-funding/esg201314>