

Proposed Schools Block to High Needs Block Funding Transfer
and
De-Delegation of Funding for Union Facilities
2022/23

The purpose of this document is to set out the proposal to transfer 0.5% of the Schools Block of the Dedicated Schools Grant to the High Needs Block in 2022/23 and to launch the consultation for the proposed transfer, it also seeks views of maintained schools on the potential de-delegation of funding for Union Facilities Time.

The consultation period opens on 20 September 2021 and closes on 18 October 2021.

BACKGROUND

Dedicated Schools Grant

1. Local authorities receive Dedicated Schools Grant (DSG) which funds schools and other pupil related services. The grant is provided in Blocks:
 - Schools Block – has two separate allocations and funds delegated budgets to mainstream schools and academies and also provides local authorities with funding to meet the revenue costs arising from the basic need to provide additional mainstream school places.
 - High Needs – funds provision for pupils with special educational needs and other services such as Oakfield, Specialist Teaching Services, provision for pupils unable to attend school because of medical needs and the Secondary Education Inclusion Partnerships.
 - Early Years – funds the entitlement to free early years education for disadvantaged 2 year olds and for 3 & 4 year olds and the service that supports that provision
 - Central Schools Services Block – funds local authority statutory duties on behalf of all pupils in maintained schools and academies and certain costs incurred on behalf of schools such as copyright licences for maintained schools and academies.
2. Prior to 2018/19 local authorities had full flexibility to transfer funding between blocks, this was largely from Schools to High Needs. 2018/19 school funding

reform implemented the a National Funding Formula (NFF) for both schools and High Needs funding to local authorities, alongside this the Department for Education (DfE) limited the ability to transfer funding from the Schools Block to High Needs.

3. Since 2018/19 local authorities have been able to:
 - Transfer up to 0.5% of the gross Schools Block to High Needs following consultation with schools and the approval of the Schools Forum. Should the Schools Forum not approve a transfer approval can be sought from the Secretary of State.
 - Transfer more that 0.5% of the gross Schools Block following consultation schools and the Schools Forum only with the approval of the Secretary of State
4. There are no restrictions on transfers between other blocks. Approval for a transfer is only for the year it is enacted; further approvals are required annually. Annual approvals cannot be carried forward and a full consultation is required for any such proposal in the following year.
5. Changes to the terms and conditions under which DSG is paid and within the Schools and Early Years Finance (England) Regulations in 2020 now require local authorities to carry any DSG deficit into, and for recovery, future years. Local Authorities may only contribute to DSG with the permission of the Secretary of State for Education.
6. The budget strategy adopted by the Council in 2006 following the introduction of DSG, and the current financial position of the County Council allowed for no contribution to DSG and services must be funded within the level of grant received. Demand and cost for places for children and young people with SEND has continued to grow over recent years resulting in a significant high needs deficit. whilst the Council is unable to contribute funded to move to a balanced budget and recovery of the deficit, it is required to set aside funding to offset the deficit. This creates financial pressure for other Council services. The high needs deficit continues to grow and is the most significant financial pressure encountered by the Council.
7. A DSG deficit reserve is a significant financial risk for local authorities and an area where the solutions to the financial position are not fully in their gift. It is now timely and necessary to seek a Schools to High Needs Block transfer for 2022/23.

School Funding

8. The Secretary of State announced on 9 September 2019 that funding for the core school budget (Schools, High Needs and Central School Services Blocks) will rise by £2.6bn in 2020/21, £4.8bn for 2021/22 and £7.1bn in 2022/23

9. This additional funding has supported the implementation of the National Funding Formula (NFF) for schools which has resulted in:
- The introduction of the minimum per pupil funding levels which for 2022/23 are at least £4,265 per primary pupil, £5,321 and £5,831 per KS3 and KS4 pupil. This has increased per pupil funding since the introduction of the NFF by at least 29% per primary and 17% per secondary pupil.
 - An increased focus within the NFF on deprivation and low prior attainment, both deemed proxy indicators of the expected incidence of SEN within the school population.
 - Introduced a funding floor and for the 3 year funding settlement announced in 2019 ensured that all schools have an annual minimum per pupil increase.
 - Allowed for the reintroduction of a positive Minimum Funding Guarantee (MFG) ensuring that schools with changes in pupil characteristics which would otherwise have resulted in a funding reduction do not lose. Resulted in an overall increase in average per pupil funding across Leicestershire schools of 11.6%
10. As local authorities remain responsible for the funding formula, they are free to set local values to the formula factors and are free, following consultation with schools to, implement the NFF, a variation to it or adopt its own unique funding formula providing that delivers the minimum per pupil funding levels and set a minimum funding guarantee within the range set by the DfE. Local authorities are also able to apply capping and scaling factors to the local funding formula. The 2021/22 Leicestershire funding formula fully reflects the NFF and no capping or scaling is currently undertaken.
11. The DfE review of Special Educational Needs and Disabilities (SEND) has been further delayed. There is a reference within current DfE consultation on completing the introduction of the National Funding Formula of how that formula can support and deliver any recommendations of the SEND review. However, it does state *'.....As such, the recommendations of the SEND Review will have important implications for how support for pupils with SEND is delivered and funded, including mainstream schools.'* It is unclear whether this will result in additional funding for High Needs Block and / or expectations of both local authority's and schools are required to deliver. Given the growing concern of continued growth of the high needs deficit actions need to be taken in advance of understanding what the implications of SEND reform may be.
12. It has been confirmed that for 2022/23 local authorities remain able to transfer 0.5% of funding from the Schools to High Needs Block with approval of the Schools Forum. Should Schools Forum not approve or a transfer in excess of 0.5% is requested approval is sought from the Secretary of State. 0.5% of the 2022/23 provisional Schools Block DSG is £2.3m and forms the basis of the proposals set out within this consultation.

13. Provisional NFF data for 2022/23 taken from the October 2020 school census has been made available by the DfE and the options for the transfer are modelled on this data and is consistent with the indicative 2022/23 NFF allocations published by the DfE.

It should be noted that the indications are indicative as the underlying pupil data will be updated in December for the October 2021 census with NFF allocations amended. As the proposed transfer percentage based this too may change when the final settlement is received.

Previous Transfers from the School Block to High Needs

14. Prior to 2013 school funding reform funding for high incidence, low cost SEN (i.e. for statements allocating 25 hours support or less) was included in schools' delegated budgets. To establish the current system of top-up funding £2.529m was transferred into High Needs to enable the local authority to pay top-up funding. Between 2014 and 2018 further transfers were made. This was not at a reduction to school budgets but by the movement of headroom in the Schools block DSG settlement. Headroom arose because:

- The Schools Block DSG was allocated to local authorities at a single rate per pupil. This rate was in excess of average primary funding but less than the average secondary funding.
- Pupil growth was experienced in primary pupil numbers

As a result, Leicestershire was fully able to deliver delegated school budgets in accordance with DfE expectations over that period and transfer funding to High Needs. The DfE introduced restrictions on the transfer of funding in 2018/19 and, request to transfer funding was made in the 2018/19 to 2019/20 financial years.

15. Consultation on a 0.5% transfer from the school's block to the high needs block was held in September 2019 to take effect in the 2020/21 financial year. The consultation responses showed no support for a transfer and was subsequently rejected by the Schools Forum on 30 September 2019. The County Councils' Cabinet considered the position at its meeting on 22 November 2019 noted the outcome of the consultation and agreed not to pursue a Secretary of State decision but noted that if the High Needs Block deficit continue to increase it may be necessary to consider future transfers.
16. Leicestershire has been one of just a few local authorities that have not undertaken a schools to high needs block funding transfer under the new funding framework. Local source information suggests that three authorities regionally will be consulting on transfers for 2022/23.
17. Between 2013 and 2018 the transfers made from the Schools to High Needs Block were;

Year	£m
2013/14	2.529
2014/15	2.018
2015/16	2.844
2016/17	7.151
2017/18	9.995
2018/19	-
2019/20	-
2020/21	-
2021/22	-

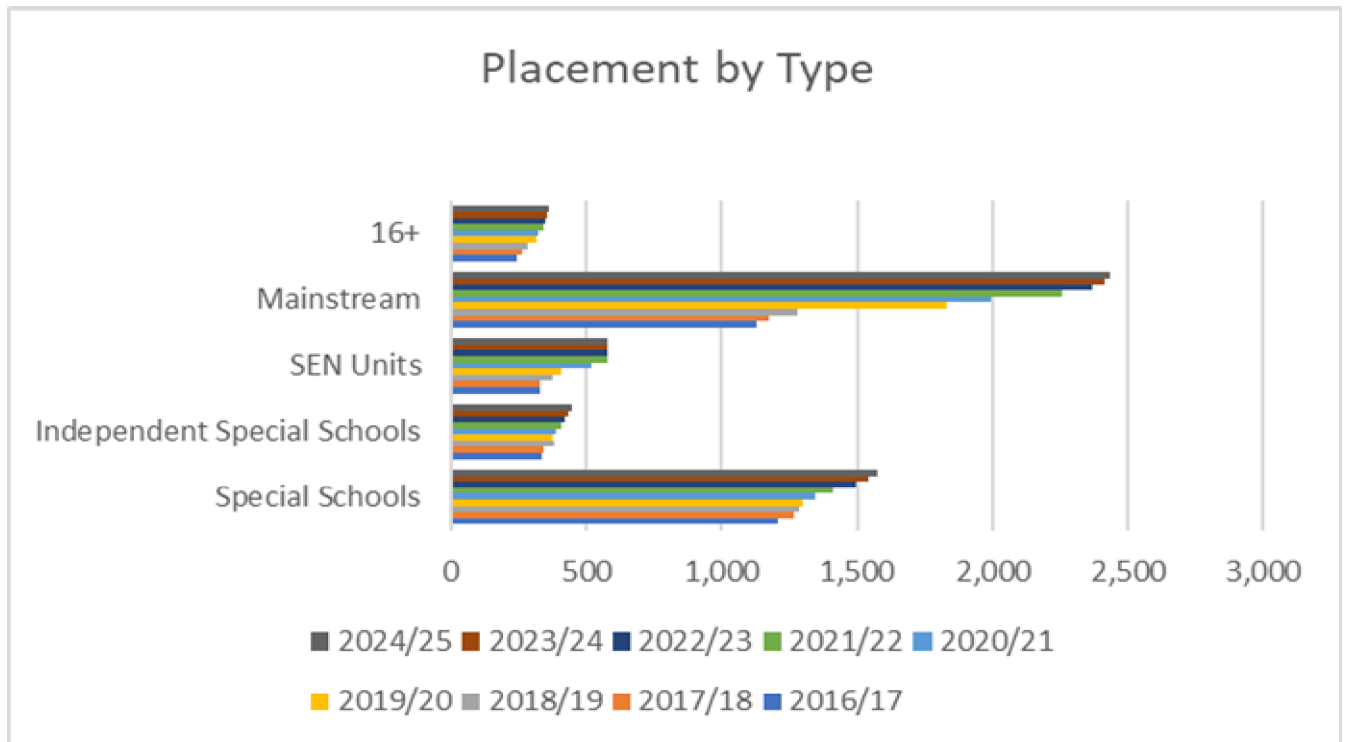
Transfers were needed to respond to an increasing spend on SEN places both within mainstream and specialist provision, increasing costs and number of EHCP's continue.

18. The proposed transfer is in response to the financial position for 2022/23. The proposal is one of a number of actions that contribute to deficit reduction but do not wholly recover the position. Further savings options are being investigated with the objective of firstly achieving an annual position where expenditure can be contained within the High Needs DSG and secondly to recover the historical deficit. During 2021/22 five local authorities have entered in agreements with the DfE who will provide additional funding to remove their high needs deficits if agreed milestones are achieved, it is not expected that such an arrangement will be made available to Leicestershire. On a financial position alone future transfer requests cannot be ruled out at this time.
19. Between 2013/14 and 2021/22:
 - gross high needs expenditure increased from £42.497m to £101.831m, a rise of 139.6 %. It is forecast that gross expenditure will further rise to £115.2m to 2024/25, a total rise of 167.7%.
 - The number of SEND funded packages has risen by 102% from 2,772 in 2013/14 to a forecast 5,613 in 2024/25, the 0-16 population growth for the same period is just 8.7%.
 - The High Needs Dedicated Schools Grant by comparison rose by £33.5m from £49.6m to £83.12m
 - Non placement high needs expenditure has been, and expected to remain, relatively stable
20. A report presented a forecast High Needs deficit of £43m in 2024/25 despite the delivery of savings to the value of £18.4m, the deficit had been expected to rise further to £45m if a schools block transfer is not undertaken to the Councils Cabinet on 22 June 2021.
21. The provisional June 2022/23 High Needs Block Grant exceeded the forecast by £1.73m, assuming this level of funding continues into the final two years of the financial plan the cumulative deficit at the end of the 2024/25 financial year

reduces to £37.802m but remains a significant financial concern and must be addressed.

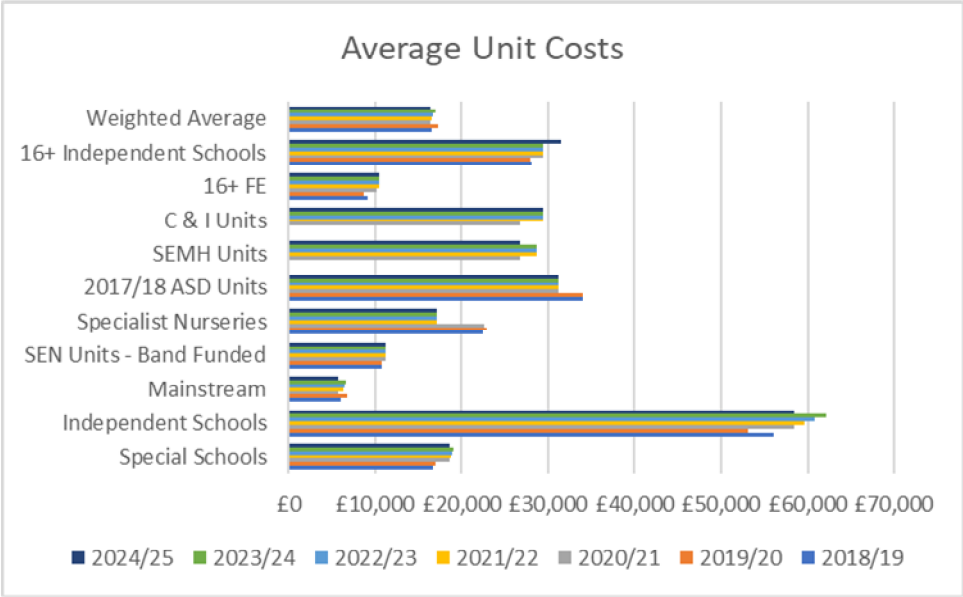
SEND Demand

22. Demand for specialist places has increased across all types of provision as set out in the chart below



23. The use of Independent Special School places has fallen from 10% to 8% of all placements, whilst a small percentage increase the cost implications of this are significant. There are increasing proportions of pupil placed in mainstream from 35% to 45% and in special schools where the increase has been from 37% to 49%. This gives an early indication that the strategy to reduce reliance upon high cost Independent Placements and increasing capacity across Leicestershire to meet children's needs is having some impact. However, the continued increase in demand negates the level of financial saving achieved and overall costs are increasing as a result.
24. A total of 534 additional specialist places have either been delivered or are on track to be delivered, these places have resulted in reduced placement costs of c£10m, through pupils taking these places rather than requiring Independent School Places, they have not delivered savings as they have accommodated new demand in the system rather than being able to accommodate pupils transferring from higher cost independent provision.
25. The impact of the increased SEN capacity within Leicestershire schools has also successfully stabilised unit costs. Overall, the weighted unit cost is

estimated to reduce by 1% over the period of the High Needs Development Plan, and cost in most provision types are forecast to reduce.



School Budgets and SEN

- 26. The funding framework for SEN is set nationally but there is an integral link between school budgets and funding for SEN. Schools are responsible for funding the first £10,000 i.e. £4,000 element 1 from the S251 budget or GAG and £6,000 element 2 from the schools Notional SEN allocation of a pupil’s provision.
- 27. The Notional SEN budget is an identified amount of money within a school's overall budget that is to contribute to the special educational provision of children with SEN across the whole school population. It is allocated to schools from the School's Block so is unsighted SEN expenditure
- 28. Mainstream School and LA funding responsibilities for SEN pupils are set out in the following table.

Funded by local authority 	Paid by Local Authority for each occupied place - may be more than one funding authority 	Total cost of provision specified in Education, Health and Care Plan Needs less £6,000 High Cost, Low Incidence	E l e m e n t 3	Element 3 funding - sometimes referred to as 'Top-up' is paid where the additional provision within the Education, Health and Care Plan exceeds £6,000 by the local authority with financial responsibility for the pupil and is in addition to the school delegated budget
Funded by school from delegated budget* 	£6,000 <hr style="border-top: 1px dashed black;"/> £4,000 	First £6,000 of cost of provision specified in Education, Health and Care Plan Low Cost, High Incidence	E l e m e n t 2	Element 2 Funding is met within the school delegated budget from the Notional SEN Budget. This is subsidiary calculation within the delegated budget consisting of 4% AWPU, 50% Low Prior Attainment and 67% IDACI. It is a financial measure of the expected level of SEND within the school population.
		Universal provision for all Pupils Universal	E l e m e n t 1	Element 1 Funding is the delegated pupil led funding for all schools and not affected by the individual level of need of pupils

29. The annual notional SEN budget allocated to schools since the introduction of the current funding system has been:

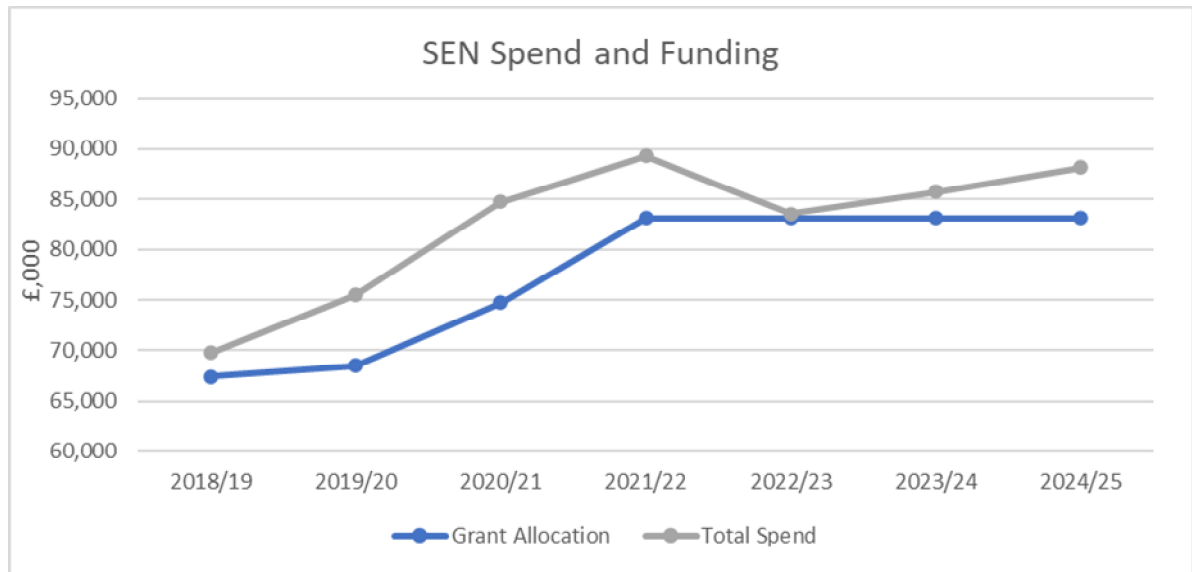
Year	£m
2013/14	29.002
2014/15	29.293
2015/16	30.162
2016/17	29.623
2017/18	30.087
2018/19	32.019
2019/20	32.572
2020/21	32.571
2021/22	34.300

As can be seen from the table above the SEN Notional Budget i.e. the funding within school budgets for the purposes of meeting SEND needs has increased by 18.3%.

30. Including the Notional SEN Budget delegated to schools Leicestershire plans to spend £125.693m on educational provision for pupils with SEND in 2021/22, this is £8.3m above the grant allocation it receives before any other specialist high needs services are funded.

High Needs Spend and Funding

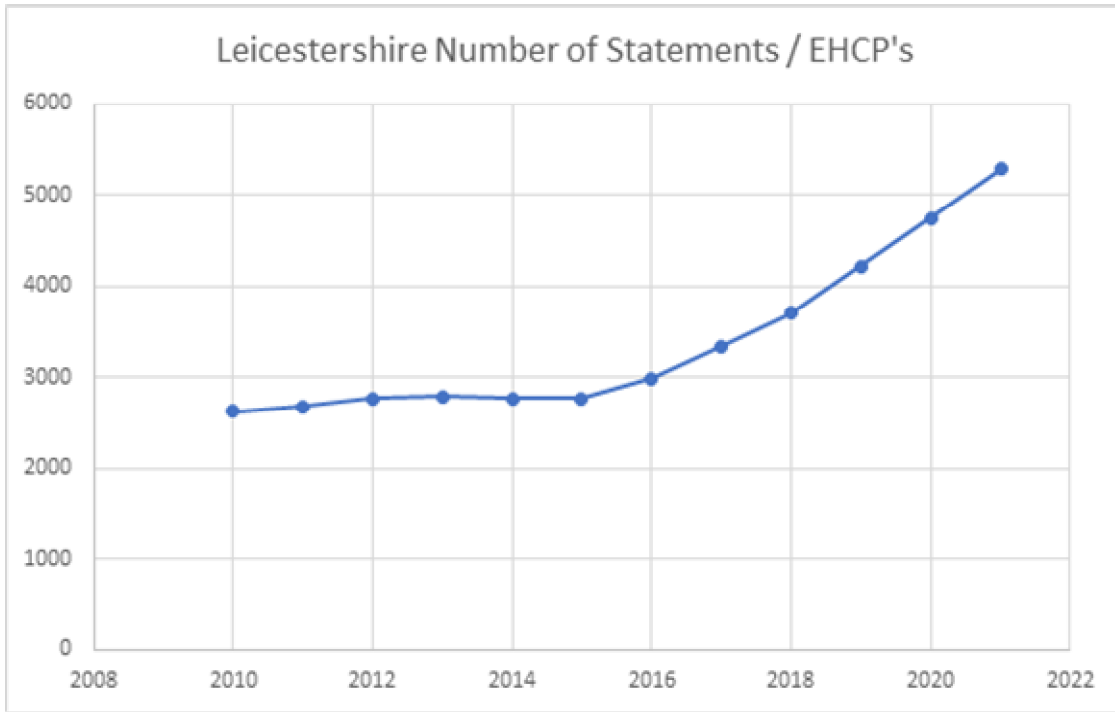
31. High needs expenditure is forecast to have increased by 26% between 2018/19 and 2024/25. However, the High Needs DSG is forecast to rise over the same period by 23% as illustrated below. Income and expenditure closely match in 2022/23 but the funding gap begins to increase again from 2024/25, this is largely a result of the savings currently built into the plan being fully delivered. Further cost reductions will need to be identified.



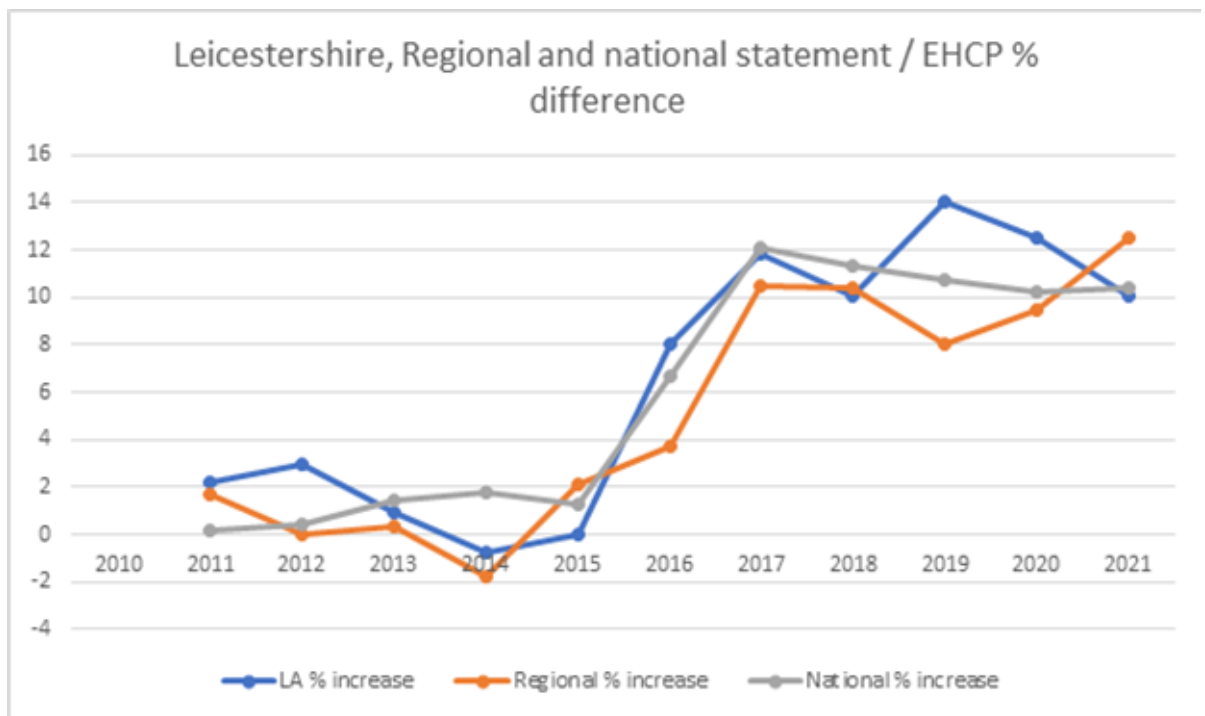
32. For 2020/21 placement costs account for 90% of all High Needs Expenditure. Reducing costs through the development of additional Leicestershire places driving down costs through effective commissioning and reducing SEND demand to be in line with similar local authorities are key to achieving financial sustainability.

Demand

33. The DfE collect statistics on the prevalence of SEND nationally through the SEN 2 return. This shows the growth in EHCP's in Leicestershire over recent years;



34. Whilst EHCP numbers continue to grow in Leicestershire the relative rate of growth against comparator authorities is falling and is now in line with the national position and less than that encountered regionally.



35. The DfE issues annual benchmarking data which combines a number of data sets to provide a rounded local picture through comparison of Education and Health Care Plan (EHCP) numbers, expenditure and DSG allocation. The latest available data from 2019 identifies Leicestershire having:

underpinning the Plan has delivered against a number of individual workstreams:

- **Inclusion** - ensuring that LCC has an inclusive offer and supports the wider sector to support children and young people to ensure that children's needs are identified and supported as early as possible in the most appropriate settings to reduce the risk of needs unnecessarily escalating.
 - **Strategy and Commissioning** – development and launch of a multi-agency SEND and Inclusion Strategy that is monitored by SEND and Inclusion Board. A key achievement of the strategy has been the development of a draft Joint Commissioning Strategy across LLR specifically to support children with SEND.
 - **Right Place Right Time** – ensuring that all resources are making the best contributions to outcomes for children and young people as they progress through their education including links to outcomes whilst giving providers flexibility to determine how those resources are used to deliver outcomes for children
 - **SENA Whole System Review** – ensuring processes, performance management and practice within the service are robust and efficient. The service has been restructured to increase the emphasis on case and performance management, once fully embedded this will ensure that EHCP's are effectively managed to ensure that pupils receive the most appropriate support to meet changing needs and within the appropriate provision. Data dashboards have been introduced to ensure that the service better understands emerging trends and needs and is able to react to them at an earlier point. This in turn will allow the mix of provision to be dynamically developed to ensure that the use of independent provision becomes an exception only for those pupils with the highest needs unable to be provided locally with the majority of pupils being educated either in mainstream provision or less costly specialist places.
 - **Contracts and Commissioning** - Focused placements in the independent sector, ensuring the achievement of value for money from all providers and delivery of the outcomes outlined in children and young people's Education Health Care Plans.
 - **Sufficiency** – ensuring the right provision in Leicestershire to cater for emerging demographic trends and housing development as well as ensuring that the provision is able to meet the needs of children. This element of the programme will deliver 534 additional specialist school places in resource based in mainstream schools, 3 new schools and expansion of Leicestershire special schools including post 16 provision.
44. A number of metrics have been adopted that allow performance to be measured against the programme outcomes with a number reporting a positive impact:

- attending training in aspects of industrial relations relevant to carrying out their trade union duties. This training must be approved by the Trades Union Congress or by the trade union of which he/she is an official.
59. Under 2013 funding reform there was an expectation that funding for these functions should be delegated to maintained schools unless maintained schools chose to 'de-delegate' i.e. decide to let the local authority continue to hold this funding to continue providing the service. The Schools Forum were charged with taking decisions on de-delegation. Funding to support union facilities time was one of the functions that fell under this requirement.
 60. Two rounds of consultation were undertaken on the changes required under 2013 school funding reform and agreed with the delegation of funding for facilities time. The Schools Forum agreed to this course of action at its meeting on 20 September 2012.
 61. Delegation was further considered by Schools Forum on 4 December 2012 where reports were tabled by both the local authority and jointly by school unions. A proposal was tabled to reverse the 20 September decision which was not supported. Funding was therefore fully delegated to all schools from 1 April 2013.
 62. The Trade Unions have approached the County Council through the Departmental Negotiation and Consultative Committee (DNCC) and the Schools Forum to reconsider de-delegation in order to provide the resource for a pooled arrangement covering all schools. Views on de-delegation are therefore being sought through this consultation, should maintained schools be in favour of de-delegation further discussions will be held with DNCC on the detailed arrangements for a pooled scheme. Should schools, and Schools Forum determine to de-delegate then it would be necessary, through DNCC to identify an operator of scheme, the County Council would enact the de-delegation and transfer the funding to the schemes operator, the County Council would not operate the scheme.
 63. Decisions on De-delegation are required to be taken annually. The DfE's consultation 'Fair school funding for all completing our reforms to the National Funding Formula' launched on 8 July 2021 confirms the DfE's intention for hard NFF i.e. where school budgets allocations are determined by the DfE and a much diminished role for local authorities in school funding decisions from 2023/24. It is unclear whether de-delegation will be permissible from this point, without de-delegation the choice for maintained schools, as currently with academies, would be to choose whether to buy into any such scheme.
 64. Should de-delegation be agreed in principle a scheme would be developed. Maintained schools would see a corresponding budget reduction of £1.50 per primary pupil and £1.73 per secondary pupil as recorded on the October 2021 census for 2022/23 to provide a fund for a scheme which would also be subject to academy contributions. These reductions would be in addition to the budget reductions arising from the Schools to High Needs Block Transfer as set out

