

Children and Families Committee

Date of Meeting:	20 March 2023
Report Title:	High Needs Funding Post-Pilot update and request to consult
Report of:	Deborah Woodcock, Director of Children's Services
Report Reference No:	CF/61/22-23
Ward(s) Affected:	All wards

1. Purpose of Report

- 1.1. The purpose of this report is to provide an update on the results of the recent pilot undertaken in relation to a potential change in model for the allocation of top-up funding associated with an Education, Health and Care (EHC) Plan, and gain recommendations on next steps for this work, including approval to carry out further consultation activity.

2. Executive Summary

- 2.1. This report updates Children and Families Committee on the results of the recently completed pilot phase to test a new banding model for the allocation of high needs funding associated with EHC Plans. Following the positive results observed from the pilot, the High Needs Funding Working Group (HNFWG) recommend wider implementation of the model and are seeking approval from Children and Families Committee to consult on these proposals.

3. Recommendations

Children and Families Committee is asked to:

- 3.1. Note the Results and Analysis Report for pilot phase 2b, and that results from pilot phase 2b can be shared with wider stakeholders at this stage (including parents/carers of children and young people with SEND).
- 3.2. Approve the High Needs Funding Working Group's (HNFWG) recommendation to not display the band on EHC Plans.
- 3.3. Consider and scrutinise the proposed new banding model for funding EHC Plans as developed by the High Needs Funding Working Group and supported by the Schools' Forum.

- 3.4. Consider and scrutinise the proposed staged implementation of the new banding model.
- 3.5. Approve plans to carry out a further open consultation on proposed changes to the High Needs Funding Model used in Cheshire East.
- 3.6. Note that the results of the consultation will be brought back to Committee.

4. Reasons for Recommendations

- 4.1. In the current model used in Cheshire East, high needs top-up funding associated with an Education, Health and Care (EHC) Plan is expressed as a number of hours of support.
- 4.2. However, the use of hours is a proxy measure which can cause confusion and does not accurately represent the many different ways in which support can be provided to meet the individual needs of a child or young person with an EHC Plan. Previous high needs funding work and consultations supported the development of a more flexible model.
- 4.3. Many Cheshire East schools already undertake a range of flexible support strategies to meet the needs of each individual child with an EHC Plan. This includes the use of small group work, equipment or specialised software for example. Changing from expressing total funding in 'hours' to a band with a financial amount would better support and reflect this, modernise our systems and remove any confusion for parents/carers, young people, schools and other professionals, including council colleagues.
- 4.4. Under the new model, agreed provision will remain focused on meeting individual needs – as it is now. Therefore, where a child's individual needs are being optimally met by existing support mechanisms (including 1:1 support), their individual provision is unlikely to change upon moving to the new model. Likewise, in schools where a range of support is already in place, there may be little difference to individual support when the new model is implemented. However, removing the use of hours (which incorrectly implies that support can only be delivered via 1:1 support from an individual) and introducing the proposed banding model supports the flexibility to try different types of provision to meet need where it may be beneficial for a child or young person. Ensuring that an individual child's needs are met through the most appropriate provision for them supports them to achieve positive outcomes. It can also provide opportunities for schools to unlock efficiencies in how they deliver effective support.
- 4.5. The following paragraphs set out further information for each of the proposed recommendations for Children and Families Committee:
- 4.6. **Note the Results and Analysis Report for pilot phase 2b, and that results from pilot phase 2b can be shared with wider stakeholders at this stage (including parents/carers of children and young people with SEND)**

- 4.6.1. The Results and Analysis Report for pilot phase 2b is provided in **Appendix 1**. The results of this pilot phase were very largely positive, and have provided evidence for the HNFWG to support wider implementation of the piloted banding model.
- 4.6.2. The HNFWG would like to share the results of this pilot with wider stakeholders for transparency purposes, to provide assurance that this work has continued to progress, and to outline the successes so far that are driving planning of wider implementation.
- 4.7. Approve the High Needs Funding Working Group's (HNFWG) recommendation to not display the band on EHC Plans**
- 4.7.1. The HNFWG previously agreed a proposal to not include any financial values (associated with bands) on EHC Plans upon a move to the new model. Further discussion around whether or not a band should be included on each individual EHC Plan was then required.
- 4.7.2. A document outlining the pros and cons of including or not including the band on the EHC Plan itself has been attached in **Appendix 2**. This document was used by the HNFWG in their meeting on 6 September 2022 to inform their discussion on this decision.
- 4.7.3. At this meeting, the working group voted unanimously in favour of **not including the band on individual EHC Plans** going forward (and instead sharing the band via the final EHC Plan letter and signposting to further information online).
- 4.7.4. The group were therefore in favour of removing the 'total allocated resources' section that is on the current EHC Plan template (and existing EHC Plans) entirely (but retaining the remainder of section F, with detailed and specified provision, as is). This recommendation was supported by the Schools' Forum in their meeting on 6 October 2022.
- 4.7.5. In the first instance, we are proposing to implement the new funding model for school aged children in mainstream schools; however, the proposal (supported by the Schools' Forum) is to remove the 'total allocated resources' section from all EHC Plans for consistency (note that this field is not usually used in EHC Plans for children and young people in specialist settings or post-16 settings, so would result in little change in information held in the document for such plans).
- 4.8. Consider and scrutinise the proposed new banding model for funding EHC Plans as developed by the High Needs Funding Working Group and supported by the Schools' Forum**
- 4.8.1. Using extensive modelling exercises, the HNFWG developed and agreed upon an appropriate model of bands and funding amounts which was then tested through the pilot. This is presented below (with loss/gain data based on 2020/21 pupil data; although demand has increased

significantly since then so the overall total cost will be higher and the overall variance is likely to have been impacted):

					Model 1 v2 - CEC current hourly rate amended (round up)	
<i>Band</i>	<i>Hours From</i>	<i>Hours to</i>	<i>Hours (round up)</i>	<i>Increments in hours</i>	<i>Top-Up Amount</i>	<i>Band Increments</i>
0	0	12	0		£ -	
1	12.1	15	15	3	£1,700	£1,700
2	15.1	18	18	3	£3,210	£1,500
3	18.1	20	20	2	£4,230	£1,030
4	20.1	22	22	2	£5,250	£1,020
5	22.1	25	25	3	£6,800	£1,550
6	25.1	28	28	3	£8,340	£1,540
7	28.1	30	30	2	£9,370	£1,030
8	30.1	32.5	32.5	2.5	£10,700	£1,330
Total Schools					141	
How many schools lose					110	
How many schools gain					31	
How many schools remain the same					0	
Biggest Loss School					-£1,461	
Biggest Gain School					£1,855	
Biggest Loss per Pupil					-£58	
Biggest Gain per Pupil					£1,235	
Total Cost					£10,551,850	
Total Variance					-£11,674	
					Model based on current hourly rate of £514 but adjusted to take account of the rounding from hours to bands	
					Biggest gain relates to pupils on 22.5 hours rounded up to 25 hours	
					Minimal saving – overall costs are forecast to increase due to demand.	

4.8.2. Data used to formulate banding models, amounts and costs have been based on 2020-2021 EHC Plan data (in terms of pupil numbers and need levels). The total variance represents the difference in total costs calculated using the 2020/2021 EHC Plan pupil cohort (number and need levels) when using the current model compared with the proposed model. Due to an increase in demand for EHC Plans, overall costs currently are considerably higher. The total cost detailed above (and calculated for other considered models) was used as a comparator to ensure the

impact of any banding model proposed would have the least impact and where possible have a neutral impact.

- 4.8.3. The HNFVG propose that this banding model (in terms of bands used and associated financial amounts) should be taken forward for full implementation (pending consultation and approval by Children and Families committee in a future meeting). This model was agreed upon by the group following extensive discussions and modelling exercises over a number of meetings and the pilot did not raise any issues with this model.

4.9. Consider and scrutinise the proposed staged implementation of the new banding model

- 4.9.1. The working group favours a staged roll-out of the new model, rather than implementing the change to all EHC Plans at once. **Appendix 3** contains information on the various options that could be used to undertake a phased implementation to the new model for existing EHC Plans; this information was used by the HNFVG in their meeting on 6 September 2022 to inform their recommendations. Please note that the content of this document, and the other appendices attached to this report, have been informed through meetings with colleagues from finance, legal and the SEND team, to ensure that due consideration was given to different factors when considering implementation options.

- 4.9.2. The working group agreed on the following recommendations for a staged implementation to the new model for **existing** EHC Plans:

- 4.9.2.1. Annual reviews/next review should be used. The group favoured this approach for a number of reasons including:

- it will prevent changes being made to individual EHC Plans twice in 1 year
- it will allow the change to be discussed during the next review and ensure that discussions continue to focus on provision
- we would only need to communicate it to all parents/carers once (if we used a system lasting several years with different roll out stages, stakeholders may need reminding several times and it may be seen as a more drastic change).

- 4.9.2.2. If there are cost or capacity issues with this approach, prioritising transition groups or certain year groups should be considered (but reviews should still be used).

- 4.9.2.3. Roll-out of the new model needs to be done in a timely manner (so parent/carers do not feel that there are 2 different systems running for a long time), but not so quick that it isn't done well.

- 4.9.3. Regarding implementing the use of the banding model for **newly issued EHC Plans**, the group strongly voted in favour of moving to the new

model for all new EHC Plans from the same date that staged implementation will start for existing EHC Plans.

- 4.9.4. All of the HNFWG's implementation recommendations were supported by the Schools' Forum in their meeting on 6 October 2022.
- 4.9.5. An implementation date is yet to be confirmed and will be planned based on further discussions around required actions, along with the feedback received through the latest consultation.
- 4.9.6. Clear communication with all stakeholders will be crucial (including to alleviate any concerns and dispel any myths surrounding the model) and a detailed communications plan has been prepared to ensure all relevant groups are kept updated on this work.

4.10. Approve plans to carry out a further open consultation on proposed changes to the High Needs Funding Model used in Cheshire East

- 4.10.1. Work to consider a new allocation model for high needs funding associated with EHC Plans has been ongoing since 2017/2018. Extensive consultation (both face to face and online) was previously undertaken in 2019, as outlined in the 'Consultation and Engagement' section of this paper.
- 4.10.2. The HNFWG is seeking approval to carry out a further consultation exercise on the proposed new model developed by the HNFWG and the proposed plans to implement it. This latest consultation, and the work leading up to it, build upon all of the previous work in this area (from 2017 onwards) and the feedback from the previous consultation activities (in 2019).
- 4.10.3. This consultation will be in the form of an online survey which will be open and available to everyone, including anyone affected by, or interested in, the way in which high needs top-up funding is allocated for children and young people with an EHC Plan in Cheshire East.
- 4.10.4. A proposed consultation document has been attached in **Appendix 4**.
- 4.10.5. The HNFWG proposes to hold some briefing sessions/question and answer sessions during the consultation period to assist any individuals that may find such sessions beneficial.

4.11. Note that the results of the consultation will be brought back to Committee

- 4.11.1. Details of the consultation outcomes will be included in a future paper for the committee on this work.
- 4.11.2. Any implementation of the proposed model will be dependent upon the consultation outcome and subsequent approval from the Children and Families Committee to proceed with the proposed model and implementation plans; a paper on this decision will be brought to a future

meeting of the Children and Families Committee after the consultation has been completed.

5. Other Options Considered

- 5.1. Do nothing and continue to express total funding for EHC Plans in hours. However, our EHC Plans would continue to poorly reflect the variety of ways that a child or young person can receive support to meet their individual needs and would continue to cause confusion and lead to difficult conversations between parents/carers, educational settings and local authority staff. It would also mean that we would not be aligned with the proposed national direction of using a banding system (as proposed in the recent SEND Green Paper) and are likely to be required to make a bigger jump to implement a national banding system at a later stage.

6. Background

- 6.1. In 2017, the Children and Families Overview and Scrutiny Committee identified the need for an in-depth review of the local SEN system. This review began in September 2017 and was carried out by a task and finish group of elected members chosen by the committee. The group's final report (agreed by the committee in 2018) included a recommendation "*that the Schools Forum be requested to review the distribution and methodology of funding*" and further specifically stated that "*a banding system should be considered. Parents find hourly funding confusing as they expect 1 – 1 tuition which is not always feasible*".
- 6.2. In early 2018, the Schools' Forum established a High Needs Formula Working Group (HNFWG) to review the model for allocating high needs funding associated with EHC Plans in response to feedback on the current model. This work aligned with the recommendation from the Overview and Scrutiny Committee's task and finish group. As an initial piece of work, the HNFWG used feedback to develop a set of principles for a new funding allocation model.
- 6.3. Following research into a number of models currently in place across the country (whilst considering the proposed principles), the HNFWG favoured the development of a model in Cheshire East based on the matrix model introduced by Essex County Council from September 2017. This model provides top-up funding in financial amounts in line with a number of bands, as opposed to a value in hours. In addition, the model utilises a 'needs-led' approach in which the appropriate financial band is determined for each individual child or young person through the completion of a Banding Descriptors 'matrix' with descriptions of different types and levels of SEN.
- 6.4. Following consultation on the proposed principles and model, an initial feasibility pilot (now referred to as 'Pilot Phase 1') was launched in September 2019. From December 2019, the project team carried out an in-depth analysis of information submitted by the pilot schools. Although feedback on using the matrix was positive, the analysis returned a number

of issues that required further consideration. As a result, the analysis phase of this pilot was extended.

- 6.5. The project team met with individual pilot schools to further discuss their experiences, and used the feedback from the pilot schools to work with various professionals on amendments to the matrix wording, weightings and formulae, whilst also considering potential format changes.
- 6.6. In late 2020, we established plans to run a second phase of the pilot immediately after the February 2021 half-term break (the work leading up to this is now referred to as 'Pilot Phase 2a'). However, these plans had to be re-evaluated in 2021 as a result of the third national lockdown of the Covid-19 pandemic and then the subsequent announcement of a return date for all pupils back into schools.
- 6.7. In December 2021, we re-established a High Needs Funding Working Group, who then oversaw and led on a further pilot phase. This pilot looked specifically at the impact for schools, children/young people and parents/carers of moving from expressing funding in hours to bands with financial amounts. This phase was referred to as 'Pilot Phase 2b' and the results of this pilot are available in **Appendix 1**. Analysis undertaken by and shared with the working group indicated that this pilot phase went well, and the group agreed to pursue next steps with the piloted change. This report seeks approval for the next steps proposed by the HNFWDG.

7. Consultation and Engagement

- 7.1. During 2019, extensive consultation was undertaken on the proposed principles and model developed by the HNFWDG. The consultation activities were open to all stakeholders, including educational settings, parents/carers and health colleagues. The principles and model (including moving from hours to financial amounts in bands) received positive feedback overall in both the face to face and online consultations, and also when shared for scrutiny and challenge in a variety of other forums (including the previous Children and Families Committee), thereby supporting continued exploration of the proposed model.
- 7.2. The HNFWDG is seeking approval from the committee through this paper to carry out a further consultation exercise on the proposed new model developed by the HNFWDG and the proposed plans to implement it.

8. Implications

8.1. Legal

- 8.1.1. In relation to whether or not to include the band on the EHC Plan, there is no legal requirement to include a total funding amount in an EHC Plan.
- 8.1.2. Section 42(2) of the Children and Families Act 2014 ('the Act') states that '*The local authority must secure the specified special educational provision for the child or young person*' and at section 42(6) of the Act

“Specified”, in relation to an EHC plan, means specified in the plan.’

When an EHCP is maintained for a child or young person the local authority must secure the special educational provision specified in the plan. The legal duty for a local authority is to provide the provision as specified in the EHCP at section F.

8.2. Finance

8.2.1. The suggested change in the funding model is about flexibility, and accurately representing how support can be provided via many different methods (not just through ‘hours’ of support from an individual). When developing the proposed model of bands and associated amounts, the HNFWG was mindful that, whilst this change in allocation model is not about reducing costs, it could not be used as a means of increasing spend either and should not result in a spend increase, due to the significant Dedicated Schools Grant (DSG) deficit reserve position. Therefore, the group was aware that any financial impact of the change in allocation model needs to be neutral and sustainable overall.

8.2.2. The Council’s Finance Team has been involved in discussions regarding the potential implementation of this new banding model, and are aware of the likely need to run two concurrent systems for issuing/allocating funding to schools and monitoring overall top-up budgets whilst the new model is being implemented for existing EHC Plans.

8.3. Policy

8.3.1. The Education & Skills Funding Agency often refer to the use of banding systems for the allocation of high needs top up funding in their operational guidance to local authorities. For example, in their *‘High needs funding: 2023 to 2024 operational guide’* the EFSA state: *“Many local authorities have systems which indicate the range of top-up funding that might be provided for children and young people with a particular complexity of need (sometimes referred to as banded funding systems). These can be helpful in providing clear and transparent funding arrangements for many types of need that may be met in a range of different schools and colleges.”*

8.3.2. Should agreement be given to implement the new banding model, we will ensure that all related council and partnership policies are updated to reflect this change. This includes key local guidance documents such as the Cheshire East Toolkit for SEND.

8.3.3. The SEND Code of Practice sets out the statutory guidelines and policy for SEND. This statutory code contains details of the legal requirements that the local authority, health bodies, schools and colleges must follow without exception to provide for those with special educational needs under part 3 of the Children and Families Act 2014.

- 8.3.4. The DfE have issued “SEND Review: Right support, right place, right time” - a SEND and Alternative Provision (AP) green paper which is a consultation on the future of SEND services. The SEND Partnership response is in support of the proposals and promptly making those legal requirements will support the council in delivery of the necessary changes.

8.4. Equality

- 8.4.1. If agreement is given to implement the proposed banding model, this will be applied equally to all school-aged children and young people in mainstream schools with a Cheshire East EHC Plan.
- 8.4.2. An equality impact assessment on this work has been prepared, and published on the [Equality Impact Assessment webpage](#) of the council’s website.
- 8.4.3. We will review this assessment after the latest consultation is completed to assess whether any additional information could be added, or whether any amendments are needed. We will then continue to review this assessment at regular intervals as the proposals proceed through governance and through any agreed implementation work.

8.5. Human Resources

- 8.5.1. There are no direct implications for human resources.

8.6. Risk Management

- 8.6.1. Council officers overseeing this piece of work are maintaining a risk register to capture and monitor any risks as they arise, and to agree any required responses.
- 8.6.2. One noted risk is the proposal in the recent SEND Green Paper to introduce a national banding system. A legislated national framework would supersede any agreed local arrangements and, as we would need to comply with national arrangements, would likely result in having to stop or amend local arrangements. However, we cannot be sure how long a national model would take to develop and implement, and implementing a move to a banded model now will align us well with the intended future direction. We will monitor the Green Paper consultation results for any further details on this, including any proposed timelines for potential implementation.

8.7. Rural Communities

- 8.7.1. If agreement is given to implement the proposed change from expressing total funding in EHC Plans from hours to bands, this will eventually be applied equally across mainstream schools in all areas of Cheshire East. We were mindful to include a range of school sizes in the latest pilot phase. We will however continue to be vigilant and monitor any potential

risks or issues that may arise as a result of this model for smaller or more rural schools.

8.8. Children and Young People/Cared for Children

- 8.8.1. Should the piloted change be implemented across Cheshire East, children and young people with EHC Plans will still receive support to meet their individual needs in line with the provision detailed in their EHC Plan.
- 8.8.2. The proposed model aims to ensure that children and young people can be supported using the most appropriate type of provision for their individual needs.
- 8.8.3. It is essential that the council makes best use of resources to ensure that children and young people receive the services they need, and those services must be provided.
- 8.8.4. The council has approved its Children’s Vision which contains a priority around children with additional needs.
- 8.8.5. The SEND Partnership Strategy sets out the Partnership vision for meeting the needs of children and young people with SEND.

8.9. Public Health

- 8.9.1. There are no direct implications for public health.

8.10. Climate Change

- 8.10.1. There are no direct implications relating to climate change or environmental sustainability.

Access to Information	
Contact Officer:	Victoria Whiting, Business Development Manager Victoria.Whiting@cheshireeast.gov.uk 07812 653591
Appendices:	<ul style="list-style-type: none"> • Appendix 1: Cheshire East High Needs Funding Pilot Phase 2b - Results and Analysis July 2022 • Appendix 2: Pros and cons of including band or not • Appendix 3: Staged implementation options • Appendix 4: High Needs Funding Consultation
Background Papers:	<ul style="list-style-type: none"> • SEND Green Paper: SEND review: right support, right place, right time - GOV.UK (www.gov.uk) • Cheshire East Press Release on Delivering Better Value: Delivering Better Value (cheshireeast.gov.uk)