

Schools Forum

MONDAY 27th JANUARY 2020 AT 2.30PM
AT OLDBURY COUNCIL HOUSE, EXECUTIVE ROOM 2

Agenda

(Open to Public and Press)

1. Apologies for absence.
2. Members to declare any interest in matters to be discussed at the meeting.
3. To confirm the minutes of the meeting held on 16th December 2019.
4. Schools Revenue Funding 2020/21
5. Pupil Number Growth Funding
6. School Closedown Timetable 2019/20
7. Early Years Funding Allocations & Rates 2020/21
8. HNB – Period 9 Monitoring Report 2019/20
9. Minimum per pupil consultation – Government response
10. Risk protection to maintained schools – Government response
11. Information: consultation on lifting the inspection exemption for outstanding schools, colleges and other organisations
12. AOB

Next Meeting:

9th March 2020; Oldbury Council House Room TBC

Schools Forum Distribution to Members:

Head Teachers Advisory Forum - Primary Schools (6)

Ms K Bickley, Ms L Gillam, Ms C Walsh, Mr G Linford

Head Teachers Advisory Forum – Secondary Schools (4)

Mr P Shone, Mr A Burns, Mr D Irish, M Arnall

Head Teachers Advisory Forum – Special School (1)

Mr N Toplass

School Governors (4)

Mr B Patel, Ms. C. Gallant, Mr J Smallman, Ms L Howard, Ms A Reyes-Dinoo

Trade Union (1)

Mr. D Barton

Early Years Partnership (1)

Mr Z Padda

14-19 Provider (1)

Ms J Bailey

Pupil Referral Unit (1)

K Morgan

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Minutes of the Schools Forum

**16 December 2019 at 2.30pm
at Sandwell Council House, Oldbury**

Members Present: D Irish (Chair);
N Toplass (Vice Chair);
M Arnull, J Bailey, D Barton, A Burns, L
Howard, L Gillam, G Linford, B Patel, S
Ramsay, P Shone, J Smallman, and C
Walsh.

Officers Present: C Ward, J Gill, R Kerr, A Timmins and M
Tallents.

Observer: R Fisher.

55/19 Agenda Item 1 - Apologies

None

56/19 Agenda Item 2 - Declaration of Interest

Agenda Item 9 High Needs Block Grant – Neil Toplass.

**57/19 Agenda Item 3 - To confirm the minutes of the meeting held
on 11 November 2019**

Resolved that the minutes for the forum held on the 11
November 2019 be confirmed as a correct record.

58/19 Agenda Item 4 - Schools Financial Value Standard

Schools Forum received an update in respect to the Schools
Financial Value Standard,

The schools financial value standard aimed to assure governing
bodies that the school was meeting a good level of financial
health and resource management.

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The tool would be used to identify any possible areas for change to ensure resources were being used to support high quality teaching and the best educational outcomes for pupils.

The tool was in two parts and comprised of a checklist and a dashboard.

The checklist asked a number of questions of governing bodies in six areas of resource management to provide assurance that the school was managing its resources effectively.

The dashboard provided ratings against a school's data and indicated how its spend and characteristics compare with similar schools or nationally recognised bandings and recommendations.

Academies had a similar version available to them to use.

It was clarified that the governing body should be receiving budget information 6 times during a year. It was acknowledged that some schools already undertook this.

Resolved that Schools Forum noted the content of the report.

59/19 Agenda Item 5 - Designated Schools Grant Deficits Consultation

Schools Forum was informed of the Designated Schools Grant deficit consultation proposals.

The consultation was undertaken between 11 October and 15 November 2019. Initially it was advised that the results of the consultation and the Department's response would be published in Winter 2019, however it was likely to be delayed due to the General Election.

The Department consulted on changing the conditions of grant and regulations applying to the Dedicated Schools Grant.

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The Dedicated Schools Grant was a ring-fenced specific grant separate from the general funding of local authorities, and any deficit an authority may have on its Dedicated Schools Grant account was expected to be carried forward and did not require to be covered by the authority's general reserves.

The Government's intention was that Designated Schools Grant deficits should not be covered from general funds but that over time deficits should be recovered from Designated Schools Grant income. No timescale had been set for the length of this process.

The Department for Education proposal was to change the conditions of the grant with effect from the end of the financial year 2019/20. This was therefore expected to inform and affect budget setting processes for 2020/21 as well as the presentation of reserves in the annual accounts for 2019/20.

Subject to the outcome of the consultation they proposed the following:

- that the local authority must carry forward the whole of the overspend to the schools budget in future years;
- the local authority may not fund any part of the overspend from its general resources, unless it applied for and received permission from the Secretary of State to do so.

Resolved that Schools Forum noted the content of the report.

60/19

Agenda Item 6 - Risk Protection Arrangement Consultation – extension to maintained schools

Schools Forum was advised in respect of the consultation and the Department of Education proposals for the extension of the Risk Protection Arrangements to local authority maintained schools.

The Department for Education was considering extending the risk protection arrangement presently operational for Academy Trusts to the local authority maintained school sector, in order to benefit from financial savings that Academy Trusts had achieved.

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The consultation was undertaken between 9 September and 4 November 2019.

The Department for Education had originally planned to publish the responses in the first week of December. Due to purdah, the response was now expected January 2020, however it was specified that stakeholders would be updated on progress.

Officers advised that the insurance department of the council had responded to the consultation with the following points:-

- Under a conventional insurance contract, as long as the policy conditions are met, the insured is entitled to indemnity and the insurer will pay claims. The scheme, like a discretionary mutual, is not contractually obliged to pay out on claims.

- The scheme does not cover risks including engineering, motor, work in progress. As such, schools will still require local authority support and resource to provide a service covering these risks in isolation.

- As part of the local authority insurance arrangements, reinstatement work relating to property and motor damage claims are dealt with by in-house teams. It is unclear if and how these arrangements will continue under the scheme.

Head Teachers asked about how the Risk Protection compared against current protections put in place by the council. They felt a legal view would be required before taking part in the scheme.

Resolved that Schools Forum noted the content of the report

61/19

Agenda Item 7 - Pupil Number Growth Monitoring report 2019/20

Schools Forum was updated on the expenditure incurred up to November 2019 from the Pupil Number Growth Fund.

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The budget for 2019/20 was set at £2.269m and the authority had received a positive recoupment adjustment of £0.538m, therefore total funding available was £2.807m. Expenditure to date was £2.009m and leaving a current underspend of £0.798m.

The reasons for such a significant underspend at this stage was an increase in the recoupment adjustment and the grant received by the authority in relation to the West Bromwich Collegiate Academy to support the revenue costs associated with the opening of the new presumption school.

The Pupil Number Growth - Additional Needs Fund carried forward a balance of £393.620 from 2018/19 with no spend to date in 2019/20.

Resolved that Schools Forum noted the content of the report.

62/19 Agenda Item 9 - High Needs Block Budget Monitoring Report 2019/20

Schools Forum received the High Needs Block budget monitoring report for 2019/20

The High Needs Block Current Grant for 2019/20 is £40.883m. The last figure reported in September 2019 was £40.698m. There has been an in year adjustment of an additional grant of £0.185m.

A table showing the updated budget allocation following the notification of the in-year grant adjustment, the anticipated outturn as at 31 March 2020 and the variance from the budget was in the report.

The anticipated in year deficit as at 30 November 2019 projected to 31 March 2020 was £1.549m

The balance brought forward as at 1 April 2019 was £90k surplus.

The final deficit would be carried forward and funded from the additional High Needs Block grant announced recently. The request to expand in borough provision had been included in a

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separate report. The request for the expansion of provision was already having an impact on the current year spending.

The main variances were outlined as follows:-

- Out of Borough Placements £485K overspend - There had been an increase in the number of pupils placed out of the borough into independent settings and other local authority maintained and academy schools following finalising the stage transfer process.
- Pupil top up and place funding £668K overspend – Maintained and Academy mainstream provision, Focus Provisions and Special Schools combined, show an overspend following new in year admissions, new assessments and an increase in the number of pupils staying on into post 16 placements in mainstream and special schools.
- Post 16 Further Educational Establishments overspend £237K – There has been an increase in the number of pupils going into colleges and specialist providers. Over 100 requests were not received until the end of November 2019 and we are still in the process of checking through the requests. Any adjustments will be reported in due course.
- Alternative Provision £692K overspend – the anticipated overspend was for pupils missing education, International new arrivals and hard to place pupils. The budget was increased to £1.4M in 2019/20 following a projection of the anticipated spend at the beginning of Spring Term 2019. However, it was found that the £1.4m was insufficient following the reconciliation of end of year payments as at 31 March 2019, which highlighted additional pupils whose details were not known at the time of the budget preparation. The last projection reported in September 2019 was £844K. This had been revised and reduced. There have been 3 Alternative Provision Panel's held since 1 September 2019 and the number of pupils allocated alternative provision places had been strictly controlled. International new arrivals in NCY 11 were still being considered for placement in an AP setting, and the

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estimated cost of these placements had been included in the prediction above.

- SEN Developments £461K underspend – This budget head currently funds staff salaries nearing the end of their contracts agreed by JEG in 2014/15, independent appeals and reports, and funding agreed that does not clearly fit onto any other budget head. It also holds an initial balancing figure of £193k which is difference between the calculated budgets as at 1 April 2019 and the HNB Grant initial settlement 2019/20 and the additional in year grant of £185K. This is used to offset any pressures in other areas within the HNB.
- Other small variances from budget equated to an underspend of £72K – This was mainly staffing changes.

In respect of Focus Provision and Special school place funding the Focus Provisions average under occupancy as at December 2019 was 14%. There are 28 vacant places and 16 places currently reserved across all the provisions.

The occupancy across all four special schools was running over capacity and an additional 18 places would be funded in year to cover the increase in occupancy across the financial year and were included in the figures.

Primrose was full, Sandwell Community School had 21 vacancies and Albright was 5 over.

A report in respect to deficit would be brought back to the next schools forum.

N Toplass queried Alternative Provision and was not clear about the money spent and the operation of the panel.

It was explained that the Alternative Provision panel was currently officer led as processes were being developed and this would shortly be extended to be a multi-agency group. This would then provide a single route into Alternative Provision with funding agreed through the panel.

Agenda Item 8 - High Needs Block Grant Provision

Schools Forum received details of the High Needs Budget Grant for the period 1 April 2020 to 31 March 2021 and outlined proposals for the use of the increase in the High Needs Budget Grant to maintain current levels of support and request increases in the support service delivery to all schools.

The 2019/20 High Needs Block Grant settlement was £40.9m following in year adjustments. The 2020/21 High Needs Block Grant indicative settlement was £48.0m following deductions.

The increase in High Needs Block Grant announced by the Government in October 2019 for the period 1 April 2020 – 31 March 2021 equated to £7.1m

The proposals in respect of Service Delivery and School Support were as follows:

- increase the capacity of the Educational Child Psychology Team;
- increase the capacity of the Complex Communication Team;
- increase the capacity of the Special Advisory Teaching and Learning Team;
- increase the capacity of the Early Years Team;
- retain the temporary staff in the SEN Casework Team;
- increase the capacity and fund the Preventing Primary Exclusions Team and the Social Emotional and Mental Health Team from the High Needs Block, removing the requirement to consult with schools as part of the hold back exercise and the requirement for future Service Level Agreements to maintain the service;
- increase the capacity of the Administration functions to support the additional staffing;
- increase the capacity of the independent Travel Training Team;
- joint commissioning of Occupational Therapy with the Clinical Commissioning Group to support the sensory impact assessments;
- retain the support for Autism West Midlands, Sandwell Parents with Disabled Children and the Special Educational Needs and Disability Information and Advice Support Services.

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Additional Proposals by schools during presentations included:

- increased capacity in the Fair Access and Exclusions Team;
- establish a Preventing Secondary Exclusions Team.

Proposal to increase 'top up funding' for pupils with EHCPs were:

- increase top up funding by 7% for pupils in mainstream schools;
- increase top up funding by 2% for pupils in special schools.

In addition, funding needs to be made available for the extension of Special Educational Needs provision within the borough included the following:

- Agreed Expansion of Shenstone Lodge.
- Temporary increase in Focus Provisions places pending new Free School.
- New Social, Emotional Mental Health Focus Provision.
- Increase in Provision at Albright.
- New Primary Moderate Learning Disability Focus Provision.
- Increase in Provision at the Orchard School.
- Expansion of Westminster Post 16.

Two new free schools were being built in the borough. Highpoint Specialist Secondary Academy was due to open in 2021 with 90 places and the Free Special Primary School was due to open in 2022 with 126 places. There would be a phased intake with full occupancy estimated by 2024 and 2028 respectively.

Schools Forum was informed that funding for the new schools is ringfenced and any surplus would be a carry forward.

In respect to the new positions schools would be involved in interviews, short term contract can affect the quality of applicants. The Local Authority would work with schools around appointment including the impact and evaluation of success.

Concerns around post 16 provision in respect to overspend in college and disappointed not to be included for additional staffing. It was said that post 16 provision was also supplied by Westminster school. Places in college are commissioned on a year on year basis.

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The presentations received favourable responses, therefore it was requested that Schools Forum approve the recommendations and use of the increased funds available to expand service delivery to schools and increases in specialist provisions.

Resolved that Schools Forum agree the utilisation of the increase in grant as recommended with effect from 1st April 2019.

64/19

Agenda Item 10 - Schools Revenue Budget 2020/21 consultation responses

Schools Forum was requested to make a recommendation on the following consultation proposals:-

- schools with significant surplus balances proposal;
- which de-delegated proposals be approved for 2020/21;
- which Education Function proposals be approved for 2020/21;
- which Central Schools Services Block proposals be approved for 2020/21.

At the Schools Forum on 11 November 2019 the School Budget Consultation was approved subject to amendments. The consultation was issued to schools on 12 November 2019 with a deadline for responses by noon on 4 December 2019.

Consultation with the following stakeholder had also been held between 14 November and 25 November 2019:-

- Association Sandwell Governing Bodies;
- Joint Executive Group;
- Secondary Partnership;
- Primary Partnership;
- Joint Union Panel.

A total of 69 responses had been received with 55 from maintained schools, 10 from academies and 4 from unions.

The views of all stakeholders would be taken into consideration in relation to the consultation on the schools funding formula for

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2020/21. The authority would consider the recommendations of Schools Forum, but ultimately it was a local authority decision.

Comments from Schools Forum members in respect of the consultation were as follows:-

- A significant number of schools on the consultation had voted against the 'schools with significant surplus balances' proposal. It was queried if the schools who were against the proposal had carried forward a large surplus balance. Officers advised that they did not have a breakdown of the schools that voted against this proposal to hand but given the numbers involved it was likely that most schools with high balances had.
- Schools felt that this proposal effectively changed in rules in year and could have a detrimental effect on school 3 year financial planning as many schools were projecting deficit by year 3.
- Schools questioned how the options would be presented next year for ratio change. It was noted that the first option would be to follow the planned 0.02 ratio increase if that option was agreed this year. Other options would be decided upon by School Forum prior to consultation next year.

A vote was held on each of the proposals and the outcomes were as follows:-

1. The preferred option to use for calculating the school funding formula for 2020/21 - Option 1.
11 in favour, 0 Against 0 Abstention.
2. Schools with significant surplus balances.
3 in favour, 0 Against 0 Abstention.
3. De delegated budget proposals

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Health and Safety Licence

Primary

5 in Favour, 0 Against, 1 Abstention.

Secondary

1 in Favour, 0 Against, 0 Abstention

Evolve Annual Licence

Primary

6 in Favour, 0 Against, 0 Abstention

Secondary

1 in Favour, 0 Against, 0 Abstention

Union Facilities Time

Primary

6 in Favour, 0 Against, 0 Abstention.

Secondary

0 in Favour, 1 Against, 0 Abstention.

School Improvement Service

Primary

6 in Favour, 0 Against, 0 Abstention.

Secondary

1 in Favour, 0 Against, 0 Abstention.

Schools in financial difficulty

Primary

6 in Favour, 0 Against, 0 Abstention.

Secondary

1 in Favour, 0 Against, 0 Abstention.

4. The Education Functions budget proposals

7 in Favour, 0 Against, 0 Abstention.

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5. The Central Schools Services Block proposals

11 in Favour, 0 Against, 0 Abstention.

Resolved that the recommendations be reported to the meeting of the Cabinet on 22 January 2020.

65/19

Any Other Business

Up to date membership and constitution of the Schools Forum would be distributed to members.

(Meeting ended at 4.00 pm)

Contact Officer: Shane Parkes Democratic Services Unit 0121 569 3190
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Agenda Item 4

Schools Forum

27th January 2020

**Dedicated School Grant Allocations and Draft School Budgets
2020/21**

This report is for information

1. Recommendations:

That Schools Forum members:

- 1.1 Note the contents of the report

2. Purpose

- 2.1 To inform Schools Forum members of the funding allocations for the Dedicated Schools Grant (DSG) and the draft school budget information for 2020/21 as voted for at schools forum. The budget information may change, subject to approval from the Department of Education (DfE) and/or decisions which will be taken at Cabinet on 22nd January 2020.

3. Links to School Improvement Priorities

- 3.1 The report allows school governing bodies and academy boards to start their financial planning for 2020/21 and to make appropriate structural and educational adjustments to meet the needs of young people within the constraints of their resource allocations.

4. Report Details

DSG Allocations 2020/21

- 4.1 The Department for Education (DfE) announced the DSG allocations for 2020/21 and the table below details the allocations by block.

DSG Block	Allocation prior to Adjustments	Adjustments	Allocation after adjustments
	£m	£m	£m
Schools	274.031	0	274.031
Central School Services	2.020	0	2.020
High Needs	49.681	(1.098)	48.583
Early Years	24.351	0	24.351
Total	350.083	(1.098)	348.985

- 4.2 A comparison of the funding and the pupils from 2019/20 to 2020/21 is shown below:

DSG Block (After Adjustments)	2019/20	2020/21
Schools Block allocation	£260.894m	£274.031m
Pupil Numbers	53,601	54,699
Central Schools Services	£2.008m	£2.020m
Pupil Numbers	53,601	54,699
High Needs Block allocation	£40.698m	£49,681m
Pupil Numbers in special school	627	712
Early Years Block allocation	£23.538m	£24.351m
3 & 4 Year old Universal PTE	6,079	6,103
3 & 4 Year old – Additional15 Hours PTE	1,353	1,521
2 Year old PTE	1,499	1,464
Early Years Pupil Premium (This funding is included within the “Early Years Allocation above”)	£0.219m	£0.230m

Disability Access Fund (This funding is included within the Early Years allocation above.)	£0.076m	£0.081m
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- 4.3 The 2020/21 Early Years Block allocations are initial, and based on Schools, Early Years and Alternative Provision censuses data from January 2019. These allocations will be updated based on January 2020 and January 2021 census data.
- 4.4 The High needs block allocations are provisional figures and will be updated in March 2020. The import/export adjustment will be updated with January 2020 school census and February R06 ILR data. The DfE will make further adjustments in March 2020 to reflect the outcome of the 2020 to 2021 place change notifications and for further academy conversions.

Schools Budgets 2020/21

- 4.5 The Schools Block funding that has been distributed through the main funding formula is £271,761,814. This has been calculated as follows:

	£
Schools Block DSG	274,030,814
Less Pupil Number Growth Contingency	(2,269,000)
Schools Block DSG Available to Distribute	271,761,814

- 4.6 The school funding model must be submitted to the DfE by 21st January for review and final confirmation of the budgets.

Proposed Formula

- 4.7 The table below lists the factor rates for the local authority formula to be applied to school's budgets for 2020/21. As stated in section 2.1, the rates may change subject to decisions by the DfE and or the Cabinet with the meeting to be held on 22nd January 2020.

Item	Primary	Secondary
Primary : Secondary Ratio	1	1.25
Basic Entitlement (AWPU)	TBC	TBC
IDACI Band E	£71	£343
IDACI Band D	£460	£667
IDACI Band C	£506	£734
IDACI Band B	£557	£807
IDACI Band A	£612	£888
Prior Attainment (Low Cost, High Incidence SEN)	£1,225	£1,776
EAL (2 years)	£846	£1,227
Lump Sum	£129,057	£129,057
Split Site	£129,057	£129,057
Rates	Actual	Actual
PFI	Actual	Actual
MFG	1.84%	1.84%
MFG Ceiling	TBC	TBC

5. **Recommendations**

That Schools Forum members

- 5.1 Note the DSG Allocations for 2020/21 and the content of the draft school budgets 2020/21 based on the principles as voted for at schools forum. These allocations may change, subject to approval by the DfE and/or decisions which will be taken at Cabinet on 22nd January 2020.
- 5.2 The final funding model has been submitted to the Department for Education to meet the final deadline date of 21st January 2020 and

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the authority should receive confirmation of the budgets shortly thereafter.

Rosemarie Kerr, Principal Accountant – Schools

Date: 21/01/2020

Contact Officer: Rosemarie Kerr

Tel No: 0121 569 8318

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Agenda Item 5

Schools Forum

27th January 2020

PUPIL NUMBER GROWTH FUNDING AND PUPIL NUMBER GROWTH - ADDITIONAL NEEDS FUNDING

This report is for decision.

1. Recommendations:

That Schools Forum members:

- 1.1 Consider the schools meeting the criteria for Pupil number growth funding and the additional funding and approve the total funding for each school as set out in the report.

2. Purpose

- 2.1 The provision of information to allow Forum members to make a decision on the allocation of pupil number growth funding and additional needs funding to schools experiencing significant pupil growth.

3. Links to School Improvement Priorities

- 3.1 The requests are linked to school improvement priorities through the need to provide education funding for young people entering our school system where a school does not have sufficient funding in reserve to accommodate pupil increases. The funding will ensure there is sufficient resource in each school to meet the needs of these pupils.

4. Report Details

- 4.1 The budget for Pupil Number Growth Funding for 2019/20 was set at £2.269m and the authority has received a positive recoupment adjustment of £0.538m, so total funding available is £2.807m.

Expenditure to date is £2.009m which gives a current under spend of £0.798m.

- 4.2 The Pupil Number Growth – Additional needs fund carried forward a balance of £393,620 from 2018/19, with no spend to date in 2019/20.
- 4.3 As set out in 2019/20 School Budget Information - Table G: “Pupil number growth contingency- general process for significant pupil number increases”; in relation to mid-year admissions and the school has a minimum net increase of 30 pupils over the previous October census, the authority will automatically calculate the funding for schools meeting this criteria and so there is no longer a requirement for schools to complete an application form in this instance.
- 4.4 The increase in pupil numbers has been confirmed via the October 2018 and October 2019 census.
- 4.5 The details for each school is set out below:

Phoenix Collegiate School

Description	Numbers/£
Change in Pupil Numbers	83
Pupil Number Growth funding if approved	£104,120

- 4.6 Based on the Pupil number growth criteria the school would be entitled to £104,120 based on 83 pupils receiving 50% of secondary AWP rate of £4,301 for the period September 2019 to March 2020.

Perryfields High School

Description	Numbers/£
Change in Pupil Numbers	35
Pupil Number Growth funding if approved	£43,906

- 4.7 Based on the Pupil number growth criteria the school would be entitled to £43,906 based on 35 pupils receiving 50% of secondary AWPU rate of £4,301 for the period September 2019 to March 2020.

Ormiston Forge Academy

Description	Numbers/£
Change in Pupil Numbers	61 (after considering the number of pupils funded in their 2019/20 General Annual Grant)
Additional funding if approved	£76,522

- 4.8 Based on the pupil number growth criteria the school would be entitled to £76,522 based on 61 pupils receiving 50% of the secondary AWPU rate of £4,301 September 2019 to March 2020.

Rosemarie Kerr, Principal Accountant – Schools

Date: 21/01/2020

Contact Officer: Rosemarie Kerr

Tel No: 0121 569 8318

Agenda Item 6

Schools Forum

27th January 2020

Schools Closedown 2019/20 Timetable

This report is for information

1. Recommendations:

That Schools Forum members:

- 1.1 Note the contents of the report

2. Purpose

- 2.1 To advise members of the closedown deadlines for maintained schools for the 2019/20 annual accounts.

3. Report Details

- 3.1 The Government deadline for local authorities to publish their audited accounts is July 2020. It is, therefore, critical for all stakeholders to work towards this new deadline.
- 3.2 Whilst it is acknowledged that the schools Budget/Finance Officer may complete some of the tasks on the schools' behalf; it is however, the responsibility of the Head Teacher to ensure all tasks are completed and that deadlines for submissions are adhered to.
- 3.3 A summary of the critical deadlines is set out below. Unless stated otherwise all deadlines are 1pm on the dates stated.
- Friday 24th January 2020 - Leasing returns
 - Friday 14th February 2020 - Provisional Capital return
 - Friday 27th March 2020 - Final Capital return

- Bank statements showing the bank balance at the end of the day 31 March 2020 need to be submitted by the latest Friday 3 April 2020. If schools do not have electronic access, please liaise with your banks to ensure this deadline is met.
- Thursday 9th April 2019 (Deadline – end of the day) - Revenue return/closedown template completed. (The final capital return must match the return submitted on 27th March 2020)

- 3.4 In order to achieve the closedown deadline set by the authority, the Schools Strategic Finance Unit (SSFU) will need to have the closedown templates as they are completed, so that the returns can be checked and uploaded to the general ledger. This should then allow sufficient time to resolve any queries with the templates.
- 3.5 SSFU are asking schools to advise of the date that closedown templates will be submitted by budget officers, it is the expectation that the template will be submitted the following day. Please can this information be provided by 28 February 2020 and submitted to schools_financialservices@sandwell.gov.uk
- 3.6 Failure to meet the authority deadline may require setting an earlier closedown deadline in future, similar to the 2017/18 closedown process where a February actual and a March estimate was used, and submission of the template was in March.
- 3.7 The authority however wishes to avoid this at all costs as it is recognised this causes additional work for all stakeholders involved in the process.
- 3.8 As a result of the change back to April for the submission of the closedown templates, the requirement to submit a spring termly monitoring in February has been reinstated as of February 2020.

4. Recommendations

That Schools Forum

- 4.1 Note the contents of the report

Rosemarie Kerr, Principal Accountant – Schools

Date: 21/01/2020

Contact Officer: Rosemarie Kerr

Tel No: 0121 569 8318

Agenda Item 7

Schools Forum

27th January 2020

Early Years Block Funding 2020/21

This report is for decision

<p>1. <u>Recommendations:</u></p>
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That Schools Forum members:

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|--|
| <p>1.1 Approve the funding rates for providers for 2020/21 as set out in section 3.17 to 3.19.</p> |
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2. Purpose

- 2.1 To inform members on 2020-21 funding rates available to the local authority which have been introduced by the Education and Skills Funding agency.

3. Report Details

- 3.1 In December 2019, the Education and Skills Funding Agency issued the “Early Years entitlements: local authority funding of providers – Operational Guide 2020-21”

- 3.2 The Department for Education (DfE) provides local authorities with 6 relevant funding streams which together form the early years block of the dedicated schools grant (DSG).

- 3.3 They are:

- 1) the 15 hours entitlement for disadvantaged 2-year-olds
- 2) the universal 15 hours entitlement for all 3- and 4-year-olds
- 3) the additional 15 hours entitlement for eligible working parents of 3- and 4-year olds
- 4) the early years pupil premium (EYPP)
- 5) the disability access fund (DAF)
- 6) maintained nursery school (MNS) supplementary funding

3.4 The main changes from the requirements for the 2019/20 financial year are:

- Clarification of the continuation of supplementary funding for MNS for the whole of the 2020/21 financial year. This is not applicable to Sandwell.
- Amendments to the requirements for the distribution of the DAF, following a change in DAF funding methodology.
- Clarification of the eligibility criteria and payment for the EYPP.

Local authority funding of the entitlement for disadvantaged 2-year olds.

3.5 There are a number of differences between how local authorities should fund the entitlement for disadvantaged 2-year-olds, compared to the entitlements for 3- and 4-year-olds.

3.6 First, unlike 3- and 4-year-olds, there is currently no regulatory requirement to pass through a set amount of the government's funding to providers for delivery of the 2-year old entitlements. This is because data from local authorities' planned budgets (via section 251) shows that the vast majority of the government's funding is already being passed through to providers. The ESFA have stated that they expect this to continue.

3.7 Secondly, there are no compulsory supplements for 2-year-olds, and local authorities are encouraged to fund providers on the basis of a flat hourly base rate for all providers.

3.8 Finally, local authorities are not required to establish a special educational needs inclusion fund (SENIF) for 2-year-olds. However, the ESFA have stated that local authorities may wish to do so as part of their provision for children with special educational needs (SEN).

3.9 Local authority funding of the entitlements for 3 and 4-year olds.

Single rate for both entitlements –

3.10 The DfE funds local authorities on the same basis for both the universal 15 hours entitlement and the additional 15 hours entitlement for working parents. This is because the statutory framework and the quality requirements for the 2 entitlements are the same.

3.11 The DfE expect local authorities to fund their providers in the same way for both sets of hours and not to distinguish between the two. This means using the same hourly base rate and same supplements for both entitlements.

95% pass-through requirement

3.12 Local authorities are required to plan to pass-through 95% of their 3- and-4-year-old funding from the government to early years providers.

3.13 The '95%' includes the following budget lines:

- base rate funding for all providers
- supplements for all providers
- lump sum funding for MNS (please note any funding from the DfE's MNS supplementary allocation will be excluded—see below)
- the top-up grant element of SENIFs paid to providers
- contingency funding

The remaining 5% expenditure

3.14 The remaining 5% of expenditure could include the following:

- centrally retained funding (for central services or services in-kind, including special educational needs and disability (SEND) services)
- transfer of any funding to 2-year-olds
- any extra hours that local authorities choose to fund in addition to the government's entitlement hours for 3- and 4-year-olds
- any funding movement out of the early years block

The Early Years Allocations to the authority and funding rates to providers for 2020/21

- 3.15 The early years block allocations are initial, and based on data from January 2019. The allocations will be updated based on January 2019 and January 2020 census data.
- 3.16 A breakdown of the funding for the early year block is shown in the table below:

Description	Funding (£m)
Universal entitlement – 3 & 4 Year olds	15.689
Additional 15 hours entitlement	3.912
2-year old entitlement	4.439
Early Years Pupil Premium	0.230
Disability Access Funds	0.081
Total Funding	24.351

- 3.17 The funding rate for early years pupil premium is 53 pence per eligible child per hour.
- 3.18 The funding rate for the Disability Access Fund is £615 per eligible child per year.
- 3.19 Table 1 below details the proposed 2020-21 early years rates for providers for 2 Year olds and 3 & 4 Year Olds.

Table 1 – Proposed Provider funding rates

Description	Rate
2-Year old – Basic Hourly rate	£5.30
3 & 4-Year old – Basic Hourly rate	£4.00
Flexibility – per hour	£0.30
Deprivation – (% in 15% lowest SOAs)	Funding per Hour
10% -30%	£0.05
31%-70%	£0.10
71% - 90%	£0.20
Above 90%	£0.25

Note: SOA – Super Output Area

4. **Recommendations**

That Schools Forum

- 4.1 Approve the funding rates for providers for 2020/21 as set out in section 3.17 to 3.19.

Rosemarie Kerr, Principal Accountant – Schools

Date: 21/01/2020

Contact Officer: Rosemarie Kerr

Tel No: 0121 569 8318

Agenda Item 8

Schools Forum

27 January 2020

SPECIAL EDUCATIONAL NEEDS HIGH NEEDS BLOCK 2019/20 **DECEMBER 2019 MONITORING REPORT**

This report is for decision

1. Recommendations:

That Schools Forum members:

- 1.1 Note the contents of the report in relation to the 2019/20 High Needs Block (HNB) Grant budget monitoring for the period 1 April – 31 December 2019.
- 1.2 Note the data provided on the commissioned places and occupancy for special provisions as at December 2020.

2. Purpose

- 2.1 To provide schools forum with the HNB monitoring position as at 31 December 2019 projected to 31 March 2020.
- 2.2 To provide schools forum with the commissioned places and occupancy data in specialist provisions.

3. HNB Budget 2019/20

- 3.1 The HNB current Grant for 2019/20 is £40.883m after deductions.
- 3.2 Table 1 shows the budget, the anticipated outturn as at 31 March 2020 and the variance from the budget.
- 3.3 The anticipated in year deficit as at 30 November 2019 projected to 31 March 2020 was £1.549m. Following completion of the December 2019 monitoring this deficit has increased to £1.850m.
- 3.4 The balance brought forward as at 1 April 2019 is £90K surplus.

- 3.5 The final deficit will be carried forward and funded from the additional HNB Grant announced recently.

Table 1 - HNB 2019/20 Budget Allocations

Budget Heading	Budget 2019/20 £000	Anticipated Outturn 31/3/20 £000	Variance from Budget £000
1) Out of Borough Placements	4,209	4,683	474
2) Pupil Top Up and Place Funding	26,559	27,338	779
3) Post 16 Colleges	1,900	2,137	237
4) Hospital PRU	993	993	0
5) SEN Support Services	1,040	1,005	(35)
6) Support for Inclusion	2,739	2,709	(30)
7) Alternative Provision	1,400	2,279	879
8) SEN Developments	800	341	(459)
8) Other SEN Funding	1,184	1,184	0
10) Exclusions & Reintegration	59	64	5
TOTAL	40,883	42,733	
HNB Grant	40,883	40,883	
(Surplus)/Deficit	0	1,850	1,850

- 3.6 The main variances since the last report presented on 16 December 2019 are as follows:

- Pupil top up and place funding has increased from an anticipated over spend of £668K to an overspend of £779K – The additional overspend of £111K is for Maintained and Academy mainstream provision, Focus Provisions and Special Schools combined following new in year admissions, new assessments and an increase in the number of pupils staying on into post 16 placements in mainstream and special schools.
- Alternative Provision (AP) overspend prediction has increase from £692K overspend reported in December to an anticipated overspend of £879k. The increase of £187K is for pupils missing education, International new arrivals (INA) and hard to place pupils. The anticipated overspend was reduced in the December report but it has now been revised following the number of international new arrivals picked up following panels in November and December and the pupils that were in the process of being placed during the Summer term prior to the new panel process. International new arrivals in NCY 11 are still being considered for placement in an AP setting, and the estimated cost of these placements has been included in the prediction above. Approximately 18 INAs were placed during November/December.

4. Focus Provision and Special School Place Funding

- 4.1 The aplaces for Focus Provisions and Special Schools against current occupancy as at December 2019.
- 4.2 The Focus Provisions average under occupancy as at December 2019 is 16%. There are 32 vacant places and 21 places currently reserved across all the provisions.
- 4.3 The occupancy across all 4 special schools is running over capacity and an additional 18 places will be funded in year to cover the increase in occupancy across the financial year and are included in the figures above.
- 4.4 As at December 2019 Primrose was full, Sandwell Community School were showing 21 vacancies, but this needs to be validated and Albright was 5 places over occupancy.

5. Recommendations

5.1 That Schools Forum note the contents of the report.

Date: 20/1/2020

Contact Officer: Chris Ward

Tel No: 0121-569-8338

2019/2020
SPECIAL PROVISION AVERAGE OCCUPANCY TABLE

All figures are representative as at the first of the month

	% April	% May	% June	% July	% August	% September	% October	% November	% December	% January	% February	% March	Places Available	Notes	Vacant Places @ December	% Vacant	Notes
Meadows	99%	100%	100%	101%	101%	107%	107%	107%	106%	106%	106%	106%	167		10 Places Over	0%	
Orchard	103%	103%	103%	103%	103%	103%	103%	103%	103%	103%	103%	103%	145		4 Places Over	0%	
Brades	92%	92%	92%	92%	92%	108%	108%	108%	108%	108%	108%	108%	37		3 Places Over	0%	
Shenstone	105%	107%	107%	109%	109%	107%	109%	109%	112%	112%	112%	112%	43		5 Places Over	0%	
Westminster	99%	99%	99%	99%	99%	105%	106%	106%	106%	106%	106%	106%	201		12 Places Over	0%	
Total Occupancy	100%	100%	100%	101%	101%	105%	106%	106%	106%	106%	106%	106%	593		0	0%	
Total Vacancies	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%					

Occupancy is between 90% & 100%
Occupancy is less than 90%
Occupancy is greater than 100%

Vacancies are less than 5%
Vacancies are greater than 5%

2019/2020
SPECIAL PROVISION AVERAGE VACANCY TABLE

	% April	% May	% June	% July	% August	% September	% October	% November	% December	% January	% February	% March	Places Available	Notes	Vacant Places @ December	% Vacant	Notes
Meadows	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	167		10 Places Over	0%	
Orchard	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	145		4 Places Over	0%	
Brades	8%	8%	8%	8%	8%	0%	0%	0%	0%	0%	0%	0%	37		3 Places Over	0%	
Shenstone	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	43		5 Places Over	0%	
Westminster	1%	1%	1%	1%	1%	0%	0%	0%	0%	0%	0%	0%	201		12 Places Over	0%	

Vacancies are less than 5%
Vacancies are greater than 5%

FOCUS PROVISION AVERAGE OCCUPANCY TABLE 2019/2020

		% April	% May	% June	% July	% August	% September	% October	% November	% December	% January	% February	% March	Places Purchased	Notes	Vacant Places @ December	Reserved
Christ Church C.E. Primary	CCD	100%	88%	88%	88%	88%	88%	100%	100%	100%	100%	100%	100%	8		0	1
Crocketts Lane Primary	PD	92%	83%	83%	83%	83%	67%	67%	67%	75%	75%	75%	75%	12		3	0
Devonshire Infant Academy	CCD	100%	100%	100%	100%	100%	40%	40%	40%	40%	40%	40%	40%	5		3	2
Devonshire Junior Academy	CCD	120%	120%	120%	120%	120%	160%	160%	140%	140%	140%	140%	140%	5		-2	1
Ferndale Primary School	CCD	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	10		0	1
Galton Valley Primary	MLD	100%	100%	100%	100%	100%	80%	80%	80%	80%	80%	80%	80%	10		2	2
Grace Mary Primary	CCD	100%	100%	100%	100%	100%	63%	63%	69%	81%	81%	81%	81%	13	8 places were commissioned as at 1/4/19 and increase to 16 wef 1/9/19. The 13 Places is the pro rata effect to 31/3/20	3	4
Great Bridge Primary	CCD	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	9		0	0
Hargate Primary (HI)	HI	82%	82%	82%	82%	82%	71%	71%	71%	71%	71%	71%	71%	17		5	1
Hargate Primary (SEMH)	SEMH	20%	40%	40%	40%	40%	40%	60%	60%	60%	60%	60%	60%	5		2	1
Ocker Hill Academy	CCD	80%	80%	80%	80%	80%	80%	80%	80%	70%	70%	70%	70%	10		3	2
Springfield Primary	CCD	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	4	Provision is being ceased. No pupils will be admitted and places commissioned will be reduced to match occupancy. 4 Places from 01/04/2019	0	0
St Martin's CE Primary	SEMH	60%	80%	80%	80%	80%	80%	80%	80%	80%	100%	100%	100%	5		1	1
Uplands Manor Primary	SLCN	75%	75%	75%	75%	75%	63%	63%	63%	63%	63%	63%	63%	8		3	1
Bristnall Hall High	CCD	100%	100%	100%	100%	100%	104%	104%	104%	104%	104%	104%	104%	25		-1	0
St Michaels C.E High (PD)	PD	95%	90%	90%	90%	90%	75%	75%	75%	75%	75%	75%	75%	20		5	1
St Michaels C.E High (CCD)	CCD	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	3		0	0
Wodensborough Ormiston Academy (HI)	HI	80%	80%	80%	80%	80%	60%	60%	60%	60%	60%	60%	60%	5		2	0
Wodensborough Ormiston Academy (CCD)	CCD	85%	85%	85%	85%	85%	90%	90%	90%	85%	85%	85%	85%	20		3	3
Total Occupancy		91%	90%	90%	90%	90%	82%	83%	83%	84%	84%	84%	84%	194		32	21
Total Vacancies		9%	10%	10%	10%	10%	18%	17%	17%	16%	16%	16%	16%				

Academy Schools	
Occupied places is between	80% - 100%
Occupied places less than	80%
Occupied places over	100%



Department
for Education

Implementing mandatory minimum per pupil funding levels

Government consultation response

December 2019

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Introduction

Background

In August 2019, the government announced the largest boost to schools and high needs funding in a decade. Compared to 2019-20, this investment will allow for cash increases of £2.6 billion next year, £4.8 billion in 2021-22 and £7.1 billion in 2022-23. On top of this, £1.5 billion will be provided each year to fund additional pensions costs for teachers, bringing the total schools budget to £52.2 billion in 2022-23.

We will continue to allocate school funding through the National Funding Formula (NFF), which ensures a fair distribution based on all schools' and pupils' needs and characteristics. Under the NFF in 2020-21, every school is benefitting from the additional funding, with per pupil funding rising at least in line with inflation and faster than inflation for most. The greatest increases will continue to go to areas which have been historically underfunded, and we have removed the previous cap on gains so that those funding gains can flow through in full. Based on the NFF, local authority allocations for 2020-21 have now been allocated through the Dedicated Schools Grant, and show an average increase of 4.2% per pupil compared to 2019-20.

In 2020-21 we are also delivering on the government's commitment to ensure that every secondary school receives at least £5,000 per pupil, and every primary school at least £3,750 per pupil. This means that the NFF, as well as continuing to direct significant extra funding for pupils with additional educational needs, will 'level up' the lowest funded schools in the country so that they have the right investment to deliver an outstanding education.

To ensure that these schools see the benefit of the additional funding, we announced that it would be mandatory for local authorities to use the minimum per pupil levels in their local funding formulae, which distribute the NFF funding that they receive for schools in their local area. This consultation response finalises the arrangements which local authorities must follow in doing so.

As well as supporting the lowest funded schools, this change represents an important first step in the government's plans to implement a 'hard' NFF, whereby all schools will receive a budget based on what they attract through the national formula, rather than through different local authority funding formulae. We will work closely with local authorities and other stakeholders in making this transition, mindful of the scale of the change and with careful consideration of the issues. We will consult on the further steps needed to deliver these plans in due course.

About this consultation

On 10 September 2019, the Department for Education launched this consultation on how to implement the minimum per pupil funding levels in the NFF on a mandatory basis in 5 to 16 school funding.

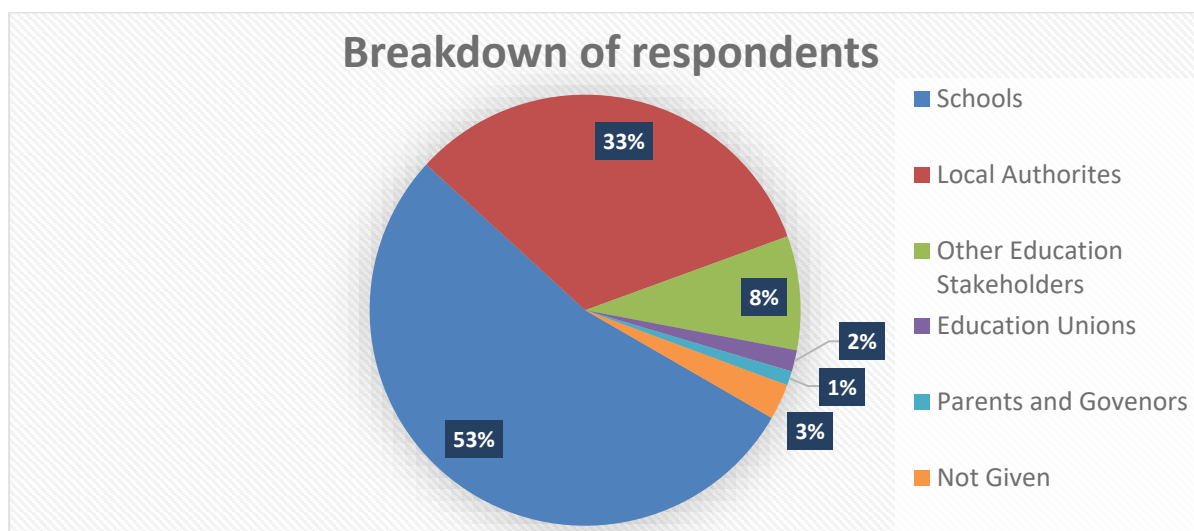
We sought views on how local authorities should implement the change in their local funding formulae, covering:

- the methodology used to calculate the minimum per pupil levels in local funding formulae;
- the circumstances in which local authorities can request to disapply the use of the minimum per pupil levels;
- further comments for any other considerations for delivering this change at local level;
- with regard to the public sector equality duty, the impact of the proposals on different groups of pupils, particularly those that share relevant protected characteristics.

This document sets out the government's response to the consultation and confirms arrangements for the mandatory minimum per pupil levels in 2020-21. It includes an executive summary on page 6 confirming final arrangements, as well as more detailed question-level analysis from page 8 onwards.

Engagement in the consultation

In total there were 187 responses to the consultation. The majority of responses were from schools (100) and local authorities (61). Three education unions responded, along with other education stakeholders (e.g. diocese, school forums, local associations of head teachers), and a small number of parents and governors.



Although the greatest number of responses came from schools, the most represented group as a proportion of its category was local authorities, with over a third of all authorities in England taking part. It is also worth noting that the minimum per pupil funding levels are only relevant to some areas of the country, which have schools attracting the lowest funding – in many parts of the country, all schools are already attracting funding above these levels.

We know that representative organisations such as teaching unions and local authorities will have canvassed their members or local schools before responding, which we have taken into account when considering their responses.

In addition, we have discussed the proposals with a range of stakeholders, including school leaders; head teacher and teacher unions; local government and other interested parties. We have also heard views on this matter during local authority events across the country.

Some respondents to the consultation answered just a subset of questions. Throughout this document the proportion of responses to a proposal are given as a proportion of all 187 respondents, rather than of those who answered the individual question.

A full list of the representative organisations who provided responses to the consultation can be found in Annex 1 of this document.

Executive summary

The minimum per pupil funding levels will be implemented in every local authority funding formula by following the same methodology used in the NFF, which received strong support in the consultation as the simplest and most consistent approach. The NFF methodology was included in the consultation and is set out on page 21 of the [Schools NFF technical note](#).

This calculates the minimum per pupil amount that a school must receive, based on the number of year groups it has in each phase. For primary schools and secondary schools with standard structures of 7 and 5 year groups respectively, this will always come to £3,750 per pupil and £5,000 per pupil respectively. For the purpose of then calculating whether and how much a school should be 'topped up' to that minimum level, its per pupil funding includes all funding it receives through the local schools formula, excluding premises and growth funding.

Any capping and scaling cannot take a school's per pupil funding, defined above, below the minimum values. The only further calculation that local authorities are able to make once their formula has provided the minimum levels is, for maintained schools only, to deduct funding for de-delegated central services if the schools forum has agreed this can be taken from their budget shares in 2020-21.

Local authorities have the option, as with other aspects of the school funding regulations, to request to disapply the use of the full NFF minimum per pupil values. Such requests should be exceptional and only made on the grounds of affordability. As reinforced by responses to the consultation, situations where this might arise, particularly if a local authority has a large number of schools on the minimum levels, include a combination of:

- the more recent pupil characteristics data used in the local authority's local formula has changed significantly enough from the data used in the NFF that the use of national factor values becomes unaffordable;
- the local authority does not use all the funding they receive through the NFF in their local schools funding formula, having transferred funding from the schools block to another DSG block or held back more funding for their growth fund than the NFF has provided.

While we will consider any individual request on its merits, we expect the commitment to minimum per pupil levels to be implemented in full locally, and both local authorities and schools should work on that basis. We will scrutinise any requests to disapply the minimum per pupil levels in this context.

In response to an issue raised by a small number of respondents, we will also consider disapplication requests to alter the NFF methodology, for specific schools only, where the local authority can show that the relevant minimum per pupil value for that school is skewed significantly by unusual year group sizes. For example, a local authority may want to provide a higher minimum per pupil level for an all-through school with significantly larger secondary than primary year group sizes. We expect such cases to be rare.

For 2020-21, local authorities and schools should follow the arrangements outlined above. We are updating the [2020-21 Operational Guide](#) and amending the School and Early Years Finance (England) Regulations to reflect these changes.

With regard to future years, we heard a number of wider points through the consultation, which are explored in further detail below. One prominent concern was about small, and particularly small rural, schools. The government recognises the essential role that small schools play in their communities, especially in remote areas. While the NFF does account for the particular challenges faced by small schools, through the lump sum and sparsity factor, we acknowledge that there is a case for further support. We will therefore consider ways to ensure that the NFF better supports small schools, including those in remote areas, from 2021-22.

These were some further strategic issues for the government to consider carefully for future years, to which the responses to this consultation provide a valuable contribution. Of these, the main concern was the impact that the minimum per pupil levels could have on local authorities' ability to target funding for additional needs and the related disincentives this may create for mainstream schools to take on pupils with Special Educational Needs and Disabilities (SEND), which was also raised in the context of equalities considerations. Other issues included: striking the right balance between funding for additional educational needs and basic per pupil entitlement; exploring the potential of 'bottom up' costing in the NFF; and fundamental questions of local flexibility over school funding.

Question level analysis

1. Calculating the minimum per pupil funding levels

Question: do you agree that, in order to calculate the mandatory minimum per pupil funding levels, all local authorities should follow the NFF methodology?

Consultation proposal

The consultation proposed to implement mandatory minimum per pupil funding levels by requiring local authorities to follow the same methodology used in the NFF, described below, in their local funding formula.

The minimum levels for all schools would be calculated using the NFF weighted average of the rates for primary, KS3 and KS4, which reflects the number of year groups a school has in each key stage. This ensures consistency for all schools, including those with non-standard year group structures. The calculation is:

$$\text{(No. of primary year groups} \times \text{£3,750)} + \text{(No. of KS3 year groups} \times \text{£4,800)} \\ + \text{(No. of KS4 year groups} \times \text{£5,300)}$$

Divided by

Total number of year groups

The calculation provides per pupil funding of at least £3,750 for each primary school, and £5,000 for each secondary school, with standard structures of 7/5 year groups respectively. For middle schools, all-through schools and other schools with a non-standard year group structure this will produce a specific minimum per pupil value that relates to the number of year groups in each phase. For new and growing schools, the minimum would be calculated based on the number of year groups they will have in 2020-21, as recorded in the Authority Proforma Tool (APT).

The APT, which we ask local authorities to use in order to specify and model their funding formulae, will allow authorities to check that each school's funding per pupil is above the relevant minimum per pupil funding level. Any capping and scaling would not be able to take the school below the minimum values.

The only further calculation that authorities would be able to make once their formula had provided the minimum per pupil level for a school is, for maintained schools only, to deduct funding for de-delegated central services if the schools forum has agreed this can be taken from their budget shares in 2020-21. Further detail on de-delegation is available in the [2020-21 Operational Guide](#).

Summary of Responses

Table 1a: Responses at a glance

Response	Number	Percentage
Yes	120	64%
No – lump sum should be excluded from calculation	13	7%
No – does not benefit small and/or rural schools	6	3%
No – MPP levels set too low which does not help with existing pressures (e.g. high needs)	3	2%
No – targets schools with low levels of additional needs	4	2%
Neither/Not Answered	41	22%

Table 1b: Breakdown of respondents

Respondents	Number	Percentage
Answered this question	173	92%
Schools	92	49%
Local authorities	58	31%
Unions	3	1%
Other (inc. diocese, schools Forum, parents, governors)	20	11%
Did not answer this question	14	8%
Schools	6	4%
Local authorities	4	2%
Other (inc. diocese, schools forum, parents, governors)	4	2%

The vast majority of respondents provided a response and supporting comments for this question.

There was broad support for the proposed calculation of mandatory minimum per pupil levels. Some comments reflected that the methodology itself was “a much fairer system for schools with a non-standard year group structure”; with one high school, for example, describing the change as “very welcome”. Most respondents, however, supported the proposal because, as described by an education union, “the simplest and most effective way to implement the mandatory minimum per pupil funding levels is for every local authority to follow the same methodology used in the NFF”. Some

respondents also commented that following the methodology was a logical step in moving towards a 'hard' NFF in future.

The main argument, from those who did not support using the NFF methodology, was that the inclusion of the lump sum would put small schools at a disadvantage. This is because while every school receives the same lump sum, for small schools this is divided by fewer pupils, which inflates their per pupil funding. It means that very small schools will often have very high per pupil funding, and will therefore not receive the minimum per pupil 'top up'.

A few local authorities felt that the NFF methodology would not be suitable in some specific cases because, while it generally supports schools with non-standard year group structures, it may disadvantage a school with very unequal class sizes within those year groups. One local authority used an example of an all-through school that "currently has 55 primary pupils over 7 year groups and over 1000 secondary pupils over 5 year groups", meaning it would attract an artificially low minimum per pupil level which does not recognise that the school has significantly more older pupils.

Another technical issue raised by one local authority was that the minimum per pupil calculation does not adjust for area costs. They argued it affects the funding that local authorities receive for schools in their area and may also affect local distribution, if a local authority has schools both within and outside the London fringe area.

Government response

In light of the strong support for the proposal, we will implement mandatory minimum per pupil levels by requiring local authorities to use the NFF methodology set out above and on page 21 of the [Schools NFF technical note](#). All local authorities must use this NFF methodology in their local formulae in 2020-21.

We recognise the concerns raised regarding the inclusion of the lump sum in the calculation, which makes the minimum per pupil levels less relevant to small schools. The minimum per pupil levels were designed as a simple 'top up' based on a school's total funding, per pupil, which is the main basis on which the funding system operates. While the inclusion of the lump sum results in small schools having high per pupil funding, this does also reflect that the lump sum particularly benefits these schools. As well as recognising a school's fixed costs, the lump sum is also intended to mitigate against pressures caused by low or fluctuating pupil numbers. As many consultation respondents recognised, this is particularly important for small schools.

Nonetheless, we acknowledge the broader issue raised about small schools and will consider ways to ensure that the NFF can better support them from 2021-22, as

discussed in response to question 3 below. In 2020-21, however, local authorities must follow the minimum per pupil methodology currently used in the NFF.

With regard to varying school structures, while responses agreed that the methodology works in the vast majority of cases, there are some rare situations in which an individual school's circumstances should be accounted for. Overall, we believe there is value in the factor's simplicity and consistency – every school, no matter their cohort, is 'topped up' to these levels if they do not otherwise receive them in local funding formulae.

However, where it is clear that very unequal year group sizes would significantly skew a school's minimum per pupil level levels, we believe it is reasonable to take a different approach for that school. We will therefore consider disapplication requests from local authorities wishing to exempt a specific school from the NFF methodology, and apply a different calculation to determine its minimum per pupil funding level. This might, for example, allow a local authority to give an all-through school with a very high number of secondary pupils, compared to primary, a higher minimum per pupil amount than the NFF. For future years, we will also consider if any further technical adjustments are needed in the NFF methodology.

2. Disapplying the mandatory minimum per pupil funding levels

Question: Do you agree that any requests from local authorities to disapply the use of the mandatory minimum per pupil levels should only be considered on an exceptional basis and in the context of the grounds described?

Proposal

The consultation proposed that, while local authorities would be legally required to use the minimum per pupil levels, they will have the option, as with other aspects of the school funding regulations, to request to disapply the use of the full NFF values.

There may be exceptional circumstances in which a local authority finds it difficult to deliver the minimum per pupil levels at the value provided in the NFF. We proposed to limit any disapplication requests local authorities wish to make to affordability pressures, suggesting such circumstances would be:

- if the more recent pupil characteristics data used in their local formula has changed significantly enough from the data used in the NFF that the use of national factor values becomes unaffordable;
- if they do not use all the funding they receive through the NFF in their local schools funding formula, having transferred funding from the schools block to

another DSG block or held back more funding for their growth fund than the NFF has provided.

Summary of responses

Table 2a: Responses at a glance

Response	Number	Percentage
Yes	123	66%
No – local authorities should never deviate from the MPP levels	12	6%
No – local authorities should have more discretion to deviate from the MPP levels	9	5%
No – more funding is required to implement the MPP	2	1%
No – small schools need additional help	4	2%
No – reason not given	5	3%
Neither/Not Answered	32	17%

Table 2b: Breakdown of respondents

Respondents	Number	Percentage
Answered this question	166	89%
Schools	88	47%
Local authorities	56	30%
Unions	3	2%
Other (inc. diocese, schools forum, parents, governors)	19	10%
Did not answer this question	21	11%
Schools	8	4%
Academies	2	1%
Local authorities	5	3%
Other (inc. diocese, schools forum, parents, governors)	6	3%

The vast majority of respondents to this consultation provided a response and supporting comments to this question.

As indicated in *Table 2a* above, 66% agreed that any requests from local authorities to disapply the use of the mandatory minimum per pupil levels should be limited to

exceptional circumstances, only on the grounds of affordability, as described in the consultation proposal.

Local authorities responding to the consultation reported that the main affordability pressure would be potential transfers of some funding from the local schools formula to the high needs budget. Other local circumstances were discussed, including funding new and growing schools locally, and the minimum funding guarantee (a minimum increase for all schools compared to the previous year). It was suggested that what could affect the affordability of the minimum levels would be the combination of these pressures in one local authority, particularly one with a large number of schools attracting minimum per pupil funding. A few local authorities also felt that, in such circumstances, consideration should be given to the wider impact on the local schools formula (such as having to substantially reducing other factor values), affecting other schools which are not on the minimum per pupil funding levels.

There was some discussion about the level of local discretion that should be permitted. A few schools felt that no exceptions should be made, arguing it to be “absolutely crucial these are implemented fully and consistently”, stating their importance in “ensuring all schools remain viable”. Conversely, some local authorities argued for discretion to amend the minimum per pupil values without the need for a disapplication request, arguing that consultation with their local schools forum should be sufficient. On both sides, there was acknowledgement of the importance of consultation with local schools and agreement from the schools forum.

Some respondents commented that the disapplication process should be as transparent as possible and that the department should share details of the requests publicly.

Government response

As set out in the consultation proposal, local authorities will have the option, as with other aspects of school funding regulations, to request to disapply the use of the full minimum per pupil values in the NFF. Responses to the consultation supported the proposal that any requests should be exceptional and only considered on the grounds of affordability described above. We heard useful insight into the local circumstances which may need to be accounted for when considering requests.

While there were some commonly identified causes for affordability pressures in local formulae, there will be a range of local circumstances in which these can have a greater impact with regard to implementing the minimum per pupil levels. Therefore, while we can be clear that consideration of any exceptions would be limited to

affordability arguments from local authorities, this reinforces the importance of looking at requests on a case-by-case basis.

When considering any requests, we will also account for the robust views from a number of respondents on the importance of delivering the minimum per pupil levels to the relevant schools. The government is committed to ensuring that the minimum per pupil levels support the lowest funded schools across the country, so that all schools are able to deliver an outstanding education. We want this commitment to be implemented in full locally, and both local authorities and schools should work on that basis. We will scrutinise any requests to disapply the minimum per pupil levels in this context.

For 2020-21, the School and Early Years Finance (England) Regulations will introduce the mandatory minimum per pupil levels, but allow for disapplication requests to alter the primary, Key Stage 3 and Key Stage 4 values. As stated in response to question 1, we will also consider requests to exempt specific schools from the methodology.

3. Additional Comments

Question: Provide any additional comments you wish to make on the implementation of mandatory minimum per pupil levels.

Summary of responses

Table 3a: Breakdown of respondents

Respondents	Number	Percentage
Answered this question	97	52%
Schools	53	28%
Local authorities	31	17%
Unions	2	1%
Other (inc. diocese, schools forum, parents, governors)	11	6%
Did not answer this question	90	48%
Schools	47	25%
Local authorities	30	16%
Unions	1	1%
Other (inc. diocese, schools forum, parents, governors)	12	6%

Table 3b: Key Issues raised

Issue	Number	Percentage
Impact on small and/or rural schools	30	16%
Methodology	28	15%
Impact on distribution of funding	26	14%
Wider cost pressures	16	9%
Affordability for local implementation	13	7%
Policy rationale	9	5%
Impact on inclusion and high needs	7	4%
Hard NFF in the long term	10	5%

This question was answered by around half of respondents who took part in the consultation. As it invited any additional comments, a wide range of issues were covered, summarised in *Table 3b*. Where there was overlap with other areas of this consultation – re-emphasising points about methodology, disapplications, or equalities issues – we have considered these responses in relation to the relevant question.

The most prominent issue was small, and particularly small rural, schools. Most of these responses were raising a wider concern about the financial viability of small schools. Some respondents, though, were specifically concerned that the minimum per pupil levels do not target small schools, arguing that these also attract low funding relative to their costs, despite high per pupil funding. Most of these respondents advocated removing or reducing the lump sum within the minimum per pupil calculation to address this, as noted in question 1.

There were a number of comments relating to the distributional impact of the minimum per pupil levels, both at a national and local level. The concern was that the factor will benefit areas and individual schools with low levels of disadvantage, because it funds schools with cohorts that have low levels of additional needs according to the NFF's proxy measures. Moreover, as the minimum per pupil levels 'top up' schools after the other formula factors have been applied, two schools with different levels of need might ultimately attract the same funding.

Conversely, others argued against a system which creates too great a difference in per-pupil funding between schools and areas, and in favour of one that also recognises that all pupils have needs. One response typified this view:

“I appreciate...it does mean that two schools with differing levels of additional needs might receive the same amount of funding. However, it ought to be of fundamental importance that we recognise that there is a minimum amount of funding needed to run any school, regardless of its pupil characteristics. The minimum per pupil levels provide an absolutely critical guarantee in this respect.”

Some respondents argued for basic per-pupil entitlement (or age-weighted pupil unit), which all schools attract for each of their pupils before accounting for any additional needs, to be prioritised over the minimum per pupil levels. Furthermore, while some respondents generally accepted the principle of the minimum per pupil levels, they wanted to see a clear link between the values and the evidence for minimum operating costs for a school, such as through ‘bottom up’ costing.

In the context of discussing wider pressures on high needs funding, some respondents were specifically concerned about the interaction of this with mandatory minimum per pupil levels. This is because, as one local authority put it, “an unintended consequence is...schools who attract [the minimum per pupil levels]...have less of an incentive ...to take pupils with low prior attainment or from a deprived area, as their funding level per pupil will not change”. This was also raised as an equalities issue in response to question 4 below.

Some respondents discussed longer term considerations about moving to a hard NFF. There was a wide range of views, from those saying that “funding within a local authority area should be left to those who have a better local understanding than an England wide central organisation”, to those arguing that “all schools should receive the full allocation directly from Whitehall”.

In the context of moving to a ‘hard’ NFF, a few respondents also made the point that the ability of multi-academy trusts to ‘pool’ academies’ General Annual Grant funding means that the guarantee of the minimum per pupil levels may not always be delivered to individual academies. This is the case even if the minimum levels are mandatory for local authorities to provide through the local funding formula.

Finally, some respondents took the opportunity to raise wider cost pressures, although many recognised the difference that the recently announced increases in funding will make. The most common issue raised was high needs funding, although other issues raised related to teachers’ pay, teachers’ pensions, growth and falling rolls. Many respondents who raised cost pressures argued for a faster implementation of the NFF to deliver gains for historically underfunded areas.

Government response

The government's rationale for the minimum per pupil funding levels is clear: they support the lowest funded schools that do not otherwise attract these levels through the NFF. By definition, these schools will have lower levels of additional needs. The minimum levels recognise that there are pupils requiring additional support in every school in the country, including in the lowest funded schools. This is a message we heard in consultation ahead of the introduction of the NFF, and have heard from schools and educational professionals since.

We rightly continue to provide significant extra funding for schools that have more pupils with additional needs, using measures of deprivation and low prior attainment. Areas with high proportions of pupils from a disadvantaged background will continue to receive the highest levels of funding. The gap between disadvantaged pupils and their peers has narrowed considerably in both primary and secondary schools since 2011, and this year alone £2.4 billion is being allocated through the Pupil Premium to help the most disadvantaged children.

The impact of a school's funding on the financial incentives to admit pupils with SEND is an important ongoing consideration. The considerable amount of funding for pupils with additional needs, over £6.3bn within the schools NFF in 2020-21 (or 18% of the formula), will continue to ensure that schools have the resources to support these pupils, including those with SEND. We are currently looking at the responses to the department's call for evidence on the financial arrangements for children and young people with SEND, and will consider changes to those arrangements in the context of the department's SEND review.

As part of our ongoing development of the NFF, we will continue to consider how the minimum per pupil levels interacts with AWPU, and we remain open to exploring the role that 'bottom up' costing could play in future.

We acknowledge the issues raised about small and rural schools, which the government agrees play an essential role in their communities. It is worth noting that the NFF, through the lump sum and sparsity factors, recognises that schools that have both low pupil numbers, and are based in remote areas, need extra support. In 2020-21 a small, rural primary school eligible for sparsity funding will attract up to £140,400, in total, through the lump sum and sparsity factors, and a small secondary school will attract up to £182,000. Schools will also benefit from the significant increases in 2020-21 to all the NFF's core factors, with the biggest gains for underfunded schools, which includes a substantial number in rural areas. In fact,

small schools are gaining 4.6% on average in 2020-21, compared to 4% for other schools.

The government does, however, acknowledge that there is a case for providing further support for small schools, including those in remote areas. We will therefore consider ways to ensure that the NFF better supports these schools from 2021-22. We will start by seeking to ensure that the support offered by the wider NFF and funding system fully reflects the additional costs that they face. We will ensure that we review the available evidence carefully, for which this consultation provides a useful contribution, and will engage stakeholders further in the new year.

This consultation has also provided evidence to help inform our ongoing thinking about how we move to a 'hard' NFF. We will work closely with local authorities and other stakeholders in making this transition, including carefully considering the issues that we would need to resolve under a hard formula, such as where funding relies on local intelligence or is tied to local duties. We will consult on the further steps needed to deliver those plans in due course.

While we heard some important issues raised in response to this question, none of these should prevent local authorities passing on the additional funding they are receiving for the schools on the minimum per pupil levels under the NFF in 2020-21.

Equalities Impact Assessment

Equalities context

This section assesses the equalities impact of making the NFF minimum per pupil levels mandatory. It considers how the changes may impact different groups of pupils, with protected characteristics defined in the Equality Act 2010.

The Equality Act 2010 identifies the following as protected characteristics for the public sector equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race (including ethnicity)
- Religion or belief
- Sex
- Sexual orientation

Under Section 149 of the Equality Act 2010, the Secretary of State is under a duty to have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
 - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
 - tackle prejudice, and
 - promote understanding.

The relevant protected characteristics under consideration are disability, race, and religion or belief. Other characteristics such as age, sexual orientation, gender reassignment, marital status, pregnancy and maternity are not considered relevant to this policy.

The analysis includes consideration of pupil characteristics where some of these groups of children are over-represented in certain groups: pupils with special educational needs and disabilities (SEND), pupils with low prior attainment, and pupils with English as an additional language (EAL).

Policy context

The minimum per pupil levels are designed to benefit schools with low levels of additional needs, because they therefore attract low funding under the NFF. The wider policy intent of the schools NFF is to allocate money to areas on a fair and transparent basis, according to pupils' needs, and to address historic disparities in funding. A range of pupil characteristics are used in the schools NFF as proxies for the level of additional educational need in a school. These proxies disproportionately correlate with some protected characteristics (race, disability). Because of this, more funding is directed to schools more likely to have a high proportion of pupils with these protected characteristics.

We have already published earlier assessments of the NFF's impact on characteristics protected under the Equality Act 2010. The first followed the first stage of consultations on the NFF in March 2016; the next followed the second stage of consultation on the NFF in December 2016; and the last was published in September 2017. The last assessment can be found [here](#).

Equalities analysis

This consultation included two questions which specifically asked about the equalities impact of making the minimum per pupil levels mandatory. The questions asked, and the profile of respondents answering each question, can be seen below.

Question 4a: Do you think that any of our proposals could have a disproportionate impact, positive or negative, on specific pupils, in particular those who share a protected characteristic?

Table 1: Breakdown of respondents

Respondents	Number	Percentage
Answered this question	137	73%
Schools	73	39%
Local authorities	48	26%
Unions	2	1%

Other (inc. Diocese, Schools Forum, Parents, Governors)	14	7%
Did not answer this question	50	27%
Schools	28	15%
Local authorities	13	7%
Unions	1	1%
Other (inc. Diocese, Schools Forum, Parents, Governors)	8	4%

Question 4b: How could any adverse consequences be reduced and are there any ways we could better advance equality of opportunity between those pupils who share a relevant protected characteristic and those who do not?

Table 1: Breakdown of respondents

Respondents	Number	Percentage
Answered this question	111	59%
Schools	65	35%
Local authorities	31	16%
Unions	2	1%
Other (inc. Diocese, Schools Forum, Parents, Governors)	13	7%
Did not answer this question	76	41%
Schools	36	19%
Local authorities	28	15%
Unions	1	1%
Other (inc. Diocese, Schools Forum, Parents, Governors)	11	6%

These two questions were answered by 73% and 59% of all those who responded to the consultation, respectively. A wide range of issues were raised, and the key points are discussed further below as they relate to protected characteristics under the Equality Act 2010. Where there is overlap with other areas of this consultation,– we have considered these responses in relation to the relevant question.

Disability

In line with their policy intent, the minimum per pupil levels benefit schools with a lower proportion of pupils with additional needs, using measures of deprivation and low prior attainment. As additional needs funding also consists of proxies to direct funding towards pupils with SEND, the minimum levels benefit schools with higher numbers of pupils with disabilities less, relative to other schools and to previous years.

It is this effect that underpinned concerns raised by some consultation respondents, who felt mandatory minimum per pupil levels would have a detrimental impact on pupils with SEND as a result. In addition, respondents warned that a mandatory minimum per pupil factor would disincentivise inclusion in schools because there would be less financial reward for taking on additional pupils with SEND for schools in receipt of the minimum per pupil funding. Some also felt this disincentive would apply to keeping pupils in schools, and expressed concerns that this could lead to off-rolling or permanent exclusion of pupils with SEND.

Overall, however, the distribution of funding still significantly favours schools with more pupils with disabilities – schools in the highest quartile for SEND pupils attract £345 more per pupil than schools in the lowest quartile. Moreover, with the introduction of the NFF we have put a higher emphasis on the low prior attainment factor, which is the strongest proxy indicator for SEND. We have allocated 7.5% of the total national funding formula to low prior attainment in 2020-21, compared to the 4.3% allocated to low prior attainment by local authorities in 2017-18, in order to better match school funding to need.

We will also be providing a significant increase of 12% to high needs funding in 2020-21, which specifically directs funding towards pupils with complex SEND and will go to mainstream as well as special schools.

It is also important to note that there are pupils with disabilities in all schools, including the lowest funded, who will also face challenges in meeting the costs of SEND provision. Individual children with these characteristics who attend the lowest funded schools will therefore benefit from the increased capability to meet such costs.

Race

Mandatory minimum per pupil levels will also benefit schools that are less likely to have children from ethnic minorities or low performing ethnicities because these characteristics in general correlate with higher overall funding at school level. Low funded schools are generally located in areas with lower proportions of these children, who more typically live in urban areas with historically high levels of funding. Moreover, there is a correlation between ethnic minority pupils and from low-performing ethnicities with some of the proxies used for additional needs funding, such as pupils with low prior attainment.

The consultation responses stressed that this change could negatively affect pupils from ethnic minority backgrounds. Again, however, the distribution of funding still significantly favours schools with high levels of additional needs, and therefore with higher incidence of this protected characteristic.

Furthermore, the separate funding floor within the NFF protects all schools in 2020-21, which particularly benefits schools with a higher proportion of children from ethnic minorities and low performing ethnicities as it disproportionately benefits schools that have been more highly funded historically. These tend to be in urban areas, and have a higher proportion of children from ethnic minorities.

Religion or belief

There is less obvious impact on pupils based on religion or belief, and no respondents to the consultation raised an issue related to this protected characteristic.

However, as with ethnic minority pupils, schools that are more highly funded historically, which tend to be in urban areas, have a higher occurrence of non-Christian pupils. Overall, therefore, non-Christians may be less likely to benefit from the minimum per pupil funding levels. These schools are, again, in areas that are by definition already highly funded, and the NFF in 2020-21 protects their funding through the funding floor.

Conclusion

As echoed by responses to the consultation, disability and race are the two main protected characteristics potentially affected by the minimum per pupil levels, and therefore also by the decision to make them mandatory.

As the minimum per pupil levels are designed to support schools with low levels of additional needs, a clear consequence is that they will benefit less those schools with higher levels of these needs, which correlate with pupils with disability and from ethnic minority backgrounds. While this is a negative impact, in relative terms, it reflects the rationale of the policy to ensure that all schools receive a minimum operating amount regardless of their pupil cohort, in recognition that all schools can have pupils with additional needs and with protected characteristics.

Crucially, the minimum levels must also be considered in the context of a national formula that provides local authorities with a considerable amount of funding specifically for additional needs, which have a disproportionately positive impact on these protected characteristics. In 2020-21, the schools NFF is providing £6.3 billion towards additional needs (or 18% of the formula), while we have provided a significant increase of 12% to high needs funding in 2020-21. The minimum per pupil levels, costing £266m in the NFF, are designed to bring the low funded schools closer to others, while the NFF still protects funding for schools with high disadvantage; in 2020-21 all additional needs factor values (deprivation, low prior attainment, EAL and mobility) have been increased by 4%. The overall policy

framework therefore continues to allocate the greatest share of resources to pupils with additional needs, and therefore those most likely to have protected characteristics.

We conclude that the equalities impact, identified in this analysis and through the consultation, is justified by the policy rationale and mitigated by the positive impact for these groups already built into the wider distribution of funding. We will, however, continue to monitor the equalities impact of the minimum per pupil levels as part of the wider distribution of funding, as well as incentives they create locally around inclusion. This consultation contributed important evidence as part of that process, which we will consider on an ongoing basis and when developing policy in future years.

Annex 1: list of organisations that responded to the consultation

This list of stakeholder organisations was drawn from the online form submitted. The list may not be exhaustive as other organisations may have engaged and contributed to the consultation response through other channels such as meetings and other forms of correspondence. Some correspondents also chose to keep their responses confidential and thus are not listed here.

Local Authorities

Barnsley Metropolitan Borough Council

Bournemouth, Christchurch and Poole Council

Bedford Borough Council

Bexley, London Borough of

Birmingham City Council

Bracknell Forest Council

Brighton & Hove City Council

Buckinghamshire County Council

Bury Council

Cambridgeshire County Council

Central Bedfordshire Council

Cheshire East Council

City of Wolverhampton Council

City of York Council

Cornwall Council

Cumbria County Council

Devon County Council

Doncaster Metropolitan Borough Council

Dudley Metropolitan Borough Council

Durham County Council
East Riding of Yorkshire Council
East Sussex County Council
Essex County Council
Greenwich, Royal Borough of
Hampshire County Council
Herefordshire Council
Hertfordshire County Council
Isle of Wight Council
Kensington & Chelsea, Royal Borough of
Kent County Council
Lambeth, London Borough of
Leeds City Council
Lincolnshire County Council
Milton Keynes Council
Newcastle City Council
North East Lincolnshire Council
North Yorkshire County Council
Northumberland County Council
Nottingham City Council
Nottingham City Council
Nottinghamshire County Council
Oxfordshire County Council
Portsmouth City Council
Richmond-upon-Thames, London Borough of
Sheffield City Council
Shropshire Council

Southend-on-Sea Borough Council

Southwark, London borough of

Suffolk County Council

Surrey County Council

Thurrock Council

Trafford Council

Warrington Borough Council

West Sussex County Council

Westminster City Council

Wiltshire Council

Worcestershire County Council

Schools

Albury Primary School

Alderman Jacobs School Academy Trust

Ardeley St Lawrence Primary School and Nursery

Bayford CofE Primary School

Beaminster School

Bishop Wordsworth's School

Bournemouth School for Girls

Bury CE Primary

Bury CE Primary School

Calday Grange Grammar School

Christ Church CE Primary Cressage

Corbridge Middle School

Culcheth High School

Denefield School

Embleton Vincent Edwards C of E Aided Primary School
Emmanuel Schools Foundation
Ferndown Upper School
First Federation Trust
Forest CE Federation
Furneux Pelham CE Primary School
Gorse Covert Primary
Gothic Mede Academy
Hadrian Learning Trust
Harting Primary
Hatton Academies Trust
Heygreen Primary School
Highcliffe School
Hollycombe Primary School
Holy Trinity C of E VC Primary School & Community Nursery - Weymouth
Horsington Church School
Hoylandswaine Primary School
Huish Episcopi Academy
Hunsdon JMI School
Kennet School Academies Trust
Landau Forte Charitable Trust
Little Heath Secondary School
Little Munden Primary School
Lymm High School
Lythe CEVC primary school
Northchapel Primary School
Oak Multi Academy Trust

Plympton Academy
Poole Grammar School
Poole High School
Royal Wootton Bassett Academy
Ryhope Infant School Academy
Sandy Secondary School
Seaton Valley Federation
Skipton Girls' High School
South Bromsgrove High Academy Trust
Southern Road Primary School
St Bede C of E Primary MAT
St Giles' C of E Primary School
St Paul's Walden primary
St Thomas Aquinas Catholic Multi-Academy Trust
Studham CofE Village School
Summit Learning Trust
Tacolneston and Morley CE VA Primary Schools Federation
Tewin Cowper CE Primary School
The Blandford School
The Judd School
The King's School
The Minerva Learning Trust (Dorset)
The Priors School
The Priory Learning Trust
The Rydal Academy (Swift Academies)
The Stonehenge School
The Three Rivers Learning Trust

Thomas Alleyne's High School, Uttoxeter

Tunbridge Wells Girls' Grammar School

Welland Park Academy

Whickham School & Sports College

Wimborne Academy Trust

Education unions

Association of School and College Leaders

National Association of Head Teachers

National Education Union

Other educational stakeholders

Association of Secondary Headteachers in Essex

Diocese of Salisbury Multi Academy Trust

National Network of Parent Carer Forums

Oxfordshire Schools Forum

Rural Services Network

Salisbury Diocesan Board of Education

School Financial Success Publications

Sunderland together for children



Department
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Department
for Education

Agenda Item 10

Extending the academies risk protection arrangement to local authority maintained schools sector

Government consultation response

January 2020

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Introduction

The Department has been considering extending the Academies risk protection arrangement (RPA) currently operational for academy trusts (ATs) to the local authority maintained schools (LAMS) sector in England, so that the sector can benefit from financial savings such as ATs have attained through membership of the RPA. For clarification, academies are the educational institutions maintained and run by ATs.

The public consultation exercise sought views on extending the RPA to LAMS provision and allowed respondents to express comments, views or concerns.

Who this was for

The following stakeholders were identified and consulted on the proposed changes, however this was a public consultation and respondents were not limited to those listed below.

- Local Authorities (LA) in England
- Governing bodies of LA maintained schools in England
- Academy trusts
- Church and other foundation and trust bodies
- The insurance industry and suppliers of insurance services including relevant insurance trade bodies and associations

Consultation period

The consultation took place from 9 September 2019 to 4 November 2019. It was conducted online using the government's consultation software, or alternatively, respondents were able to email or send a response form.

About the consultation

Summary

The Department proposes to extend the risk protection arrangement (RPA) currently operational for academies to the LAMS sector.

Context

The Department commenced the RPA for academies on 1 September 2014, on an opt-in basis, as an alternative to commercial insurance.

The RPA project was initiated in order to help reduce the cost to the public purse of protecting academies against risk. In 2014 the average cost of commercial insurance for academies was £49.93 per pupil. The RPA launched in September 2014 at a cost of £25 per pupil. In the light of claims experience to date, the RPA has been able to reduce its cost to £18 per pupil in 2019/20.

We are now looking at the potential to extend the RPA to the LAMS sector in England in order to help reduce the cost of protecting them from risk.

This document summarises our proposals for change, the consultation responses to those changes, and then sets out what Ministers have decided to do.

Proposed introduction of RPA to LAMS

- We proposed in the consultation document that in principle the coverage of the LAMS arrangement and the cost per pupil should be the same as for academies, since we believe the risks faced by LAMS are similar to those faced by ATs. As in the academy arrangement, cost for special schools and alternative provision (pupil referral units) would be expressed per place rather than per pupil.
- We proposed that it should also be possible for all primary and/or secondary maintained schools in an LA to join collectively by agreeing through the Schools Forum to de-delegate funding, as they currently can for purposes including insurance. In that case we proposed the LA would apply for membership en masse on behalf of the schools, though LAMS would become individual members and make individual claims. In order to facilitate that we intended to add the RPA to the current paragraph in Part 6 of Schedule 2 to the Schools and Early Years Finance Regulations that allows schools to de-delegate funding from their budget share for insurance.

- Subject to the outcome of the consultation, the proposed extension of the RPA to the LAMS sector would become effective from 1 April 2020. A new set of Membership Rules would be created for LAMS.

Summary of responses received

This section sets out the views that we received in response to the consultation “Extending the risk protection arrangement to LA schools”.

In total there were 148 responses to the consultation.

Table A – Types of respondents

Respondent Type	Number of responses	Percentage
Governor	14	9%
Headteacher/ Principal Teacher	7	5%
Industry Expert	4	3%
Insurance Company Employee	2	1%
Local Authority Finance Officer	34	23%
Local Authority Insurance Manager	33	22%
Not Answered	1	1%
Other – Please provide role details	9	6%
Parent	3	2%
School Business Professional	41	28%
Grand Total	148	100%

A full list of the organisations that have responded can be found at Annex A.

Some respondents chose only to answer a subset of the questions that were posed. Throughout the report, the number of responses for each question is given and the percentages are expressed as a proportion of those answering each question, not as a proportion of all responses.

Summary of main findings from the consultation

55% of respondents to the consultation supported the proposed extension of the RPA cover to LAMS. They suggested that their current commercial insurance was potentially not cost effective and they could save money if the RPA was extended to LAMS.

25% of respondents disagreed with the proposal and suggested that the current commercial market worked well and they did not consider it was necessary to extend RPA to LAMS.

20% of respondents were unsure and noted that they would need further information before reaching a decision.

The cumulative response from the LAMS related sector¹ was strongly positive, with 83% agreeing to the extension of the RPA to LAMS, from April 2020.

A more detailed analysis of responses to each question follows.

¹ Combined responses from School Business Professionals, Headteachers / Principal Teacher, Governors and parents.

Question analysis

Questions 1 – 8 gathered basic details about the respondent such as name, organisation and role, which we used to populate Table A on page 5, above. The full consultation questions document can be found at Annex B.

Question 9

Does the proposed RPA cover of Local Authority Maintained Schools impact you or your organisation directly or indirectly? Please let us know what the impact would be, and if this would cause any concerns or issues?

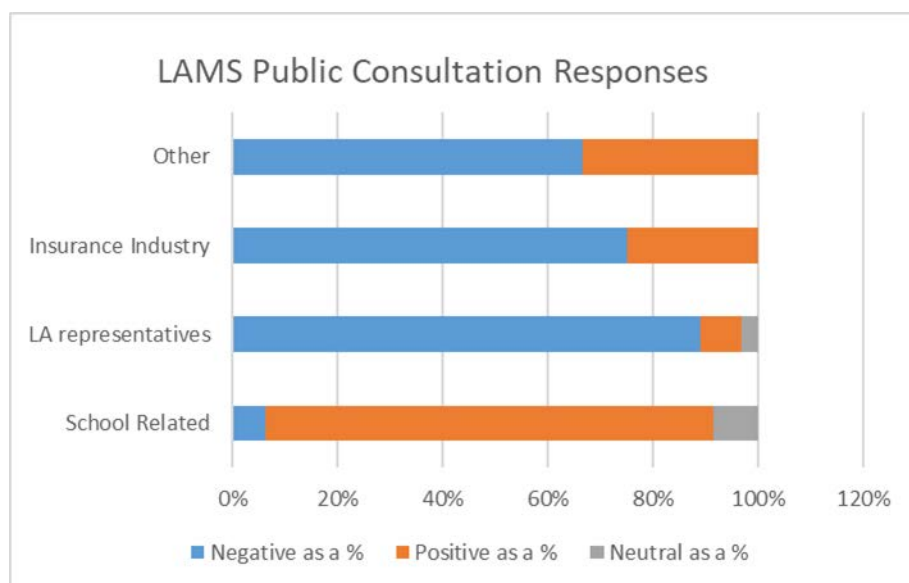
There were 147 responses to this question, however there were a number of respondents who answered yes to this question and offered no comments, so we are unable to describe the potential impacts. There were also a number of responses where comments were received but the impact was unclear.

Respondent Type	Negative	Positive	Neutral
Governor	0	8	1
Headteacher/ Principal Teacher	1	3	1
Industry Expert	2	1	0
Insurance Company Employee	1	0	0
Local Authority Finance Officer	27	4	0
Local Authority Insurance Manager	30	1	2
Other – Please provide role details	4	2	0
Parent	0	2	0
School Business Professional	2	27	2
Grand Total	67	48	6

Responses were analysed by respondent category: **Schools Related** represents the schools sector and comprises School Business Professionals, Headteachers / Principal Teacher, Governors and parents; **LA representatives** include Local Authority Insurance Managers and Finance Officers and **Insurance Industry** includes Industry Experts and Insurance Company Employee.

Respondent Category	Negative as a %	Positive as a %	Neutral as a %
School Related	6%	85%	9%
LA representatives	89%	8%	3%
Insurance Industry	75%	25%	0%

Other	67%	33%	0%
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The information below is in relation to the 121 respondents who provided comments.

55% of respondents suggested that there would be a negative impact on them or their organisation. 40% said that the impact would be positive and there were a number of comments, 5%, where the impact was considered neutral even though comments had been provided.

However, of the 55% who suggested there would be a negative impact on them or their organisation, almost a quarter also supported the extension of the RPA.

When comparing the responses received by the respondent category, it reveals an overwhelmingly positive response of 85% from the school sector community itself. This is distinctly opposite to the view of the LA representatives and the insurance industry, which viewed the impact of extending the RPA as negative, at 89% and 75% respectively.

Specific recurring themes that arose from the 121 responses to question 9, are as follows:

- 26% of respondents suggested that the introduction of the RPA to LAMS had the potential to save money. Some respondents provided examples relating to their current insurance costs, noting the savings they could make if the scheme was introduced. They suggested it would provide schools with a cost effective alternative to insurance and a commercial bartering tool with private providers.

- 14% of respondents also suggested that reducing the cost of insurance would mean that the savings realised could be reallocated to teaching and learning, leading to positive impacts on student outcomes.
- 14% of respondents suggested that they would need further information before they could make a decision on potential impact. They suggested that they would need to undertake a full comparison of covers before they could decide, including how the RPA would compare to their current arrangement, in terms of items such as coverage and the claims process.
- 45% suggested that the introduction of the RPA to LAMS would weaken their own in-house insurance schemes through loss of economies of scale and a reduction to the diversification of their assets, where the removal of low risk schools may impact on the remaining high risk areas. There was also some concern that there may be job losses in LA teams who deal with insurance for maintained schools.
- 33% of respondents said that if the RPA was introduced and schools left LA provision then the remaining insurance would potentially be more costly: they suggested there are economies of scale in the pricing of LA insurances. There were also concerns that removing schools from the LA insurance arrangements could impact the ability of the LA to spread the cost of risks.

The following comment was also submitted by a number of respondents:

“Whilst the Council's spend on property insurance will reduce when schools are removed from our insurance portfolio, it is highly unlikely that spend on the public liability premium will reduce. This is because highways, children's services and social care are the main areas of risk and premiums reflect this. As a result, we will have to meet a greater share of the cost of premiums as there will be a smaller base to share this cost. This will mean the cost to other Council services is likely to increase.”

- 28% of respondents noted that they currently received good risk management processes and policies with their current providers, with regular audits and some provision of training of staff. Some respondents suggested that the RPA appeared to offer little or no risk management support and asked how the RPA would incentivise schools to improve their risks.
- 25% of respondents indicated that the LA would still retain some obligations if a school joined the RPA. They noted that accountability and the duty to educate remained with the LA and that the LA retained ownership of school property and associated liabilities relating to providing an education service. Some respondents suggested that the RPA did not cover all risks that a school was required to insure against. LAs noted that they would have to have a process in place to check that the

buildings they owned were adequately insured as there could be an increased chance that some schools could potentially fail to arrange all the required insurances and the LA and the School could be exposed to uninsured losses. It was also noted that some schools were used for out of hours activities and non-educational purposes e.g. polling stations and questioned whether the RPA covered these uses.

- 25% of respondents suggested that additional covers, such as motor vehicle and engineering were needed as they were currently provided with these by their current insurance. Respondents also noted that they would like works in progress and travel insurance included in the scheme, despite these being already provided by the RPA. Other respondents suggested that the £250,000 works in progress limit was not sufficient.
- 25% of respondents suggested that the local knowledge and information insurance companies had built up was invaluable. Respondents noted that LAs had close working relationships with their maintained schools and the proposed introduction of the RPA could potentially remove the local knowledge and face to face relationship often needed to deliver specific insurance issues. They also suggested that a personal service where they dealt with queries on behalf of schools limited the amount of time/involvement needed by school staff.
- 22% of respondents noted that their current insurance supplier had a well-established and effective help and advice structure and questioned whether this was replicated in the RPA provision. Respondents said that LA insurance teams had local knowledge, experience, skill, contacts and an interest in dealing with school claims. They noted that many schools relied on them as they did not employ insurance personnel themselves and queried if the RPA would provide this.
- 16% of respondents commented on current RPA processes or rules noting that;
 - The proposed level of cover in places does not replicate those currently offered.
 - There would be an additional requirement for schools to raise and manage any insurance claims themselves.
 - Support would still be required from schools who joined the RPA to gain cover for motor, works in progress and engineering and it is unclear how this would be funded, premium and arrangement wise.
 - The specific nature of some schools means that the governing body makes a capital contribution of 10%. It is important that the scheme is suitably amended to reflect the different position of VA schools compared to other maintained schools.
 - It is noted in the proposal that there will need to be an adjustment in the wording to reflect that the LA owns the premises and employs the staff. There is, however, no acknowledgement that in Catholic VA schools the

diocese/religious order owns the land and the governing body is the employer of the staff.

- 12% of respondents suggested that while the majority of insurance policies tended to be annual, many LAs negotiate Long Term Agreements (LTAs) to avoid annual tendering and also usually receive a discount. It was noted that although individual schools still had the option to opt out of existing LA insurance arrangements, the removal of an entire school portfolio could have an impact on an LTA, potentially to the financial detriment of the LA which could be in breach of the agreement.
- 12% of respondents suggested that under the RPA proposals, LAs would potentially lose control of funding and decision making in schools to central, rather than local government, in the event of a major loss or problem arising.
- 10% of respondents noted that they would need additional information concerning the RPA to compare the levels of cover provided by their current supplier, before they could make a decision.
- 6% of respondents questioned how much consideration the Department had given to legacy claims and questioned if the LA would be left to respond to any legacy claims such as historic abuse, dyslexia and industrial disease (e.g. mesothelioma) without any ongoing contribution to the Insurance Fund from LAMS.

Question 10

In principle, do you or your organisation support the proposed extension of RPA cover to Local Authority Maintained Schools?

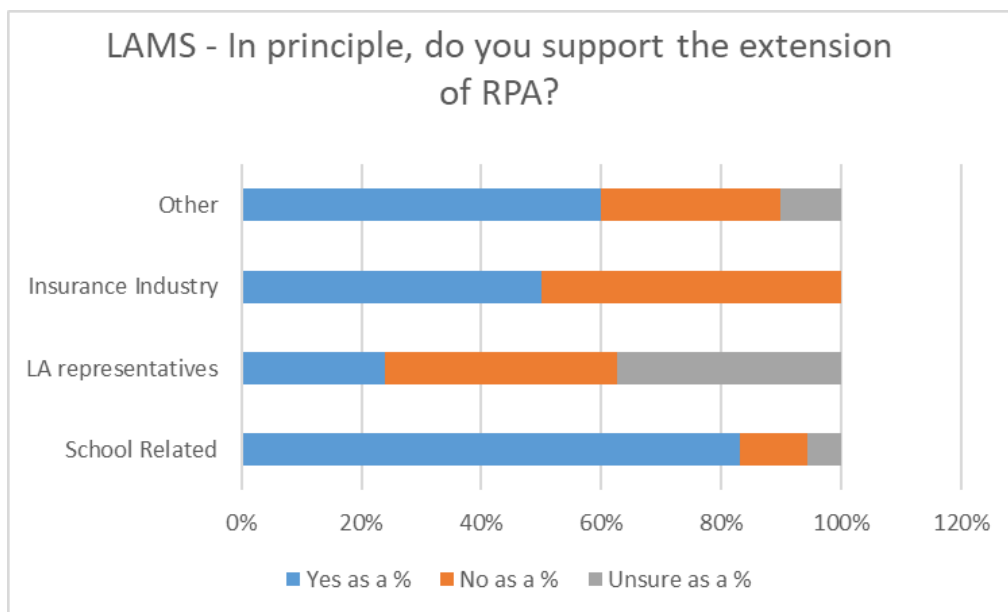
There were 148 responses to this question		
Options	Responses	
Yes	81	55%
No	37	25%
Unsure	30	20%

Respondent Type	Yes	No	Unsure
Governor	9	4	1
Headteacher/ Principal Teacher	5	1	1
Industry Expert	2	2	0
Insurance Company Employee	1	1	0
Local Authority Finance Officer	6	14	14
Local Authority Insurance Manager	10	12	11
Other	6	2	1
Not Answered	0	1	0
Parent	3	0	0
School Business Professional	39	0	2
Grand Total	81	37	30

There were a total of 148 responses to this question.

Responses were analysed by respondent category: **Schools Related** represents the schools sector and comprises School Business Professionals, Headteachers / Principal Teacher, Governors and parents; **LA representatives** include Local Authority Insurance Managers and Finance Officers and **Insurance Industry** includes Industry Experts and Insurance Company Employee.

Respondent Category	Yes as a %	No as a %	Unsure as a %
School Related	83%	11%	6%
LA representatives	24%	39%	37%
Insurance Industry	50%	50%	0%
Other	60%	30%	10%



The majority of respondents (55%) agreed with the proposed extension of the RPA cover to LA maintained schools.

When comparing the responses received by the respondent category, it reveals a strongly positive response from the school sector of 83%. The LA representatives' response was more mixed with 24% in favour of the introduction of the RPA and 39% against. The insurance industry representatives were split 50/50 on the proposal to extend the RPA.

Specific reoccurring themes that arose from the 148 responses to question 10, are as follows:

- 16% of respondents reiterated that the introduction of the RPA to LAMS would save them money by significantly reducing the cost of their insurance. It was suggested by one respondent that the money they could potentially save would be commensurate to the cost of a newly qualified teacher.
- 16% of respondents suggested that they strongly supported the introduction of the RPA as it redressed an unfair difference between academies and maintained schools.
- 25% of respondents disagreed with the proposed extension of the RPA cover to LA maintained schools.
- 18% of respondents indicated that they would need additional information concerning the RPA to compare the levels of cover provided by their current supplier, before they could make a decision on the validity of introducing the scheme. It was also noted that there was a concern that the RPA was still a relatively immature scheme and the information available on performance

measures was largely unknown. There was also concern noted about the resilience of the scheme and its sustainability in the event of sustained large scale liability or property losses.

- 14% of respondents said that their current LA insurance scheme works well. LAs had close relationship with schools giving risk advice and policy cover guidance and support when claims occurred. Respondents believed that their current insurance regime had developed through a longstanding relationship with insurers, meaning that both schools and LAs had confidence in the insurers' ability to meet their needs. 5% also commented that they a good working relationship with their LA.
- 9% of respondents said that the cover offered by the RPA would need to be similar to or better than the cover they already had.
- 9% of respondents asked if the RPA was legally obliged to pay out on claims. There were a number of similar comments, which suggested "the RPA, like a discretionary mutual, was not contractually obliged to pay out on claims or replace like for like in the event of a claim".
- 9% of respondents suggested risk management was an issue they were concerned about. They said that their LA undertook school surveys to help identify risks, and made recommendations for improvement. They believed that the RPA did not undertake risk surveys or audits and had no way of ensuring standards were maintained or risks improved.

Question 11

Have you any comments on what adjustments you think would be needed to the rules of the RPA to cover the circumstances of Local Authority Maintained Schools?

There were 148 responses to this question		
Options	Responses	
Yes	70	47%
No	72	49%
Not answered	6	4%

44% of respondents did not offer any comments for this question, and of those who did there were few comments on the adjustments needed to the rules.

16% of respondents suggested that additional covers were needed. Those respondents who realised that works in progress cover was included in the RPA suggested that the limit would need to be raised, while those who were not aware suggested that works in progress cover would need to be added. Respondents also noted that their current cover included motor insurance and engineering inspection arrangements to meet statutory requirements. Some LA respondents suggested that motor and engineering cover would not be available in isolation.

16% of respondents said that they would need more information asking;

- Will there be a lower rate for PFI Schools who pay for Premises/Building Insurance via the PFI Unitary Charge?
- How can LA schools have a direct insurance relationship with DfE?
- Will the RPA cover the use of the school for non-educational uses such as hire, community events and polling stations?
- Is the proposal that individual governing bodies of LAMS can agree to join the RPA individually or is it only collectively via a vote process through the Schools Forum?
- There will need to be clarity in respect of the RPA that recognises the potential differences in liability arising from differences in status, particularly voluntary aided and community schools. In the case of voluntary aided schools, the governing body is deemed to be the employer whereas, in the case of community schools the LA is deemed to be the employer. Similarly, in the case of premises, the LA owns the land and premises of community schools whereas ownership of VA schools is usually with the church authorities. How will the RPA deal with this?
- Presently the rules are amended for church academies in the following ways: The rules apply where the trustees of a church organisation allow an academy to occupy their property. Under the rules those trustees:

- 1) Are covered for losses and liabilities they may incur through the school occupying the property
- 2) Can make claims on behalf of the occupier for those losses and liabilities
- 3) Can have those claims paid directly to them; and
- 4) Can use the complaints and arbitration procedures about those claims.

It was felt unclear if the expectation was that these rules would be implemented for Church VA schools as they stood or if they were to be modified.

- It was noted that Catholic Academies are only permitted to join the RPA if they have received approval in writing from the Trustees. Respondents asked if this rule would apply to Catholic LAMS schools.

17% of respondents suggested that there would not be many differences and that the rules should be similar to academies.

10% again noted that there appeared to be no incentives for schools to manage risk.

10% said that there were few if any changes needed to the rules and that the proposal appeared fair and commensurate with current arrangements for academies.

8% of respondents asked if there would be an individual choice for LAMS schools to join or if the decision is an authority wide decision taken by the Schools Forum.

Question 12

Have you any comments on the proposed arrangements for adjusting budget shares and DSG and amending the regulations in respect of the RPA?

There were 148 responses to this question		
Options	Responses	
Yes	55	37%
No	90	61%
Not answered	3	3%

The majority of respondents (61%) did not offer any comments for this question.

16% of respondents noted that they agreed with the proposals, that the proposed arrangements were sensible and straightforward and agreed the DSG reduction was the simplest method.

12% of respondents felt that the process would be complicated and noted the following:

- Not all schools would necessarily want to join the RPA and they may have different renewal dates for their existing insurance policies. Mass de-delegation would therefore probably not be practical.
- Some schools currently purchased insurance via a 'buy back' scheme which respondents suggested was straightforward to administer. They said that the proposals for adjusting budget share for individual schools or to de-delegate funding seem slightly more complicated.
- It was noted that for individual LAMS joining the RPA there was a need to minimise the administrative complexity of this option by having a clear cut-off date for opting into the scheme and perhaps also requiring a multi-year buy in to the RPA.
- It was suggested that the financial mechanism to adjust budget shares would not work for maintained special schools as de-delegation did not apply to them and their funding was not calculated via the APT. Respondents questioned how the Department proposed to deal with this.

10% of respondents noted their concern around timescales. They suggested that schools could have different renewal dates for their existing insurance policies and mass de-delegation might not be practical. Respondents also suggested that the timing of when the cost of the following year's scheme was notified was important, both to allow schools to undertake commercial comparisons and to allow Schools Forums to consult on de-delegation. It was suggested that as the de-delegation decision was aligned to financial years and not academic years, that should the RPA extension

proposal go ahead, this should be from April 2021 at the earliest i.e. LA consultation with the LAMS from October 2020, for a decision in November 2020.

Government response

Summary

The government has carefully considered the responses to the consultation and has noted the difference of view between the school related responses to the proposed extension, and those from LA representatives and from the insurance sector. The strong response from schools that they would wish to see an extension of the RPA to cover LAMS, because of the potential financial benefits, creates a strong argument that the RPA should be extended to LAMS with effect from 1 April 2020.

Whilst we note the reasons for objections from the LAs and from the insurance sector, we are more persuaded by the benefits that schools could derive by being enabled to join the RPA. This will be a voluntary scheme for LAs and their schools. Our purpose is to offer choice, reduce the cost burden and where possible widen the offering of risk protection cover. We are content that where the LA or the insurance sector offers good value for all schools, then we are happy for schools to continue with these arrangements. However, where schools consider that this is not the case, then they will now be given the opportunity to join the RPA with effect from 1 April 2020.

After careful consideration of the responses and measuring the pros and cons of the proposal, Ministerial approval has been given and changes to the School and Early Years Finance regulations have been put in train to allow for the RPA to operate for LAMS from 1 April 2020.

Once these arrangements are in place, we will continue to review market behaviours and listen to LAs to assess changes in the market or impacts on the LAs over time. We are considering carrying out a survey after a period of operation.

Response to comments

The key question asked in the public consultation was “*In principle, do you or your organisation support the proposed extension of RPA cover to Local Authority Maintained Schools?*”. Of the 148 responses, 81 were in favour of extending the RPA (55%), 37 were against (25%) and 30 were unsure (20%).

Of the school related respondents, 83% were in favour. This is a positive outcome of the public consultation which we believe reflects the importance of extending the RPA to LAMS.

Responses from the LA respondents show that although 39% were against the proposal, 24% were in favour of extending the RPA and 37% unsure.

The picture is also unclear from the insurance industry respondents, with 50% in favour and 50% against the proposal. However, we do know from their response that ABI are strongly opposed to the extension and they represent a number of commercial insurers who are active in the education sector.

In response to Q9 “*Does the proposed RPA cover of Local Authority Maintained Schools impact you or your organisation directly or indirectly?*” there was a clear distinction between the school sector and the LA / industry representatives.

The comments from the school sector demonstrated a significantly positive response with 85% of the comments detailing the benefits of the RPA to LAMS. This cohort of respondents recognised the potential savings that could be made on the procurement of risk cover, which would remain within the budget of the school to improve student outcomes. Respondents who suggested there would be a negative or neutral impact felt it would be difficult for LAs to manage the duty to educate and were concerned the LA could potentially lose control of their reinstatement and business continuity arrangements. A small number of respondents suggested their current insurance costs were less than the proposed RPA rate.

Analysis undertaken based on the 2017-18 consistent financial reporting (CFR) insurance spend figures indicated that the average annual spend per pupil in the LAMS sector was approximately £44. Compared to the current² £23.67 per pupil per year overall spend on risk cover for an RPA member an average saving of £20.33 per pupil per year is potentially achievable, reinforcing the case for the RPA to be extended into the LAMS sector. The latest analysis based on 2018-19 data published on 13 December indicates that the annual spend per pupil in the LAMS sector is now £41 per pupil. Whilst this reduces the potential average saving to £17.33 per pupil, it remains a meaningful level of savings to schools.

Conversely, comments from LA and insurance industry representatives were predominantly negative with 89% and 75% respectively detailing the perceived disadvantages of extending the RPA. Assessment of the comments from the LA Insurance Managers and Finance Officers indicate that there is widespread misunderstanding of how the RPA currently operates. Respondents that were positive about the extension of LAMS welcomed the opportunity of increased competition to the insurance market and potentially the transfer of the liability and property risk away from the authority.

In response to this, an overview of how the RPA currently operates is provided and the specific points raised are addressed below.

² Calculated from the academies accounts return data for 2017/18

Current RPA operation

The RPA is not an insurance scheme but is a mechanism through which the cost of risks will be covered by government funds. It is a voluntary arrangement currently available to all ATs and multi-academy trusts (MATs), including free schools, 16-19 academies, schools designated with a religious character that are academies, special academies, alternative provision academies, UTCs, studio and PFI schools.

Since it was launched in September 2014, over 6,100 academies have joined.

The DfE administer the arrangement, supported by external advisors and third party suppliers who provide services including claims handling and risk management.

The Government Actuary's Department (GAD) have been heavily involved with the financial provisioning of the RPA and perform two separate reviews annually, one as at 31 August and the other as at 31 March. The biannual review structure supports an appropriate level of financial governance at this stage of the RPA's development, whilst also providing DfE with the information required for horizon scanning to meet the operational requirements in the future. This review structure will continue once the RPA is extended to the LAMS.

Membership Rules - Cover

The RPA covers a wide range of risks relevant to most academies and full details are included in the membership rules. The membership rules are updated from time to time to reflect the needs of the members, with additional cover being added as it is considered appropriate. Below is a summary of the risk cover the RPA currently provides and which is intended to be provided to LAMS:

Type of risk	Description	Limit	Member Retention
Material damage	Loss or damage to buildings, contents, computers and stock owned by or the responsibility of the academy	Reinstatement value of the property	£250 (Primary Academy) £500 (all other Members) each and every loss other than subsidence (£1000)
Business interruption	Compensation for increase in cost of working, resulting from interruption or interference with the business following a material damage loss	£10,000,000 any one loss	£250 (Primary Academy) £500 (all other Members)

Type of risk	Description	Limit	Member Retention
Employers liability	All sums the academy may become legally liable to pay (including claimants' costs and expenses) following death, injury or disease sustained by Employees and arising out of and in the course of their employment by the academy	Unlimited	Nil
Third party liability	For all sums the academy may become legally liable to pay (including claimants' costs and expenses) as damages in respect of accidental third party injury or third party property damage	Unlimited	Nil
Governors' liability	Governors' liability expense	£10,000,000 any one loss and any one membership year	Nil
Professional indemnity	Actual or alleged breach of professional duty	Unlimited	£1,000 each and every loss
Employee and third party dishonesty	Direct pecuniary loss due to the dishonesty of academy Employees and/or theft of money by computer fraud	£500,000 any one loss and any one membership year	£250 (Primary Academy) £500 (all other Members) each and every loss
Money	Loss of money whilst in transit or elsewhere	Various, including cash on premises or in transit £5,000	£50 (Primary Academy) £100 (all other Members) each and every loss
Personal accident	Compensation for accidental bodily injury to Employees, governors, trustees,	Death and capital benefits £100,000	Nil

Type of risk	Description	Limit	Member Retention
	volunteers and pupils of the academy whilst on the business of the academy in the UK		
United Kingdom travel	Compensation for travel related costs including loss of baggage, cancellation, curtailment, rearrangement and change of itinerary	Baggage and money £2,000 per person. Cancellation £1,000 per person	Nil
Overseas Travel (including winter sports) and Personal Accident	Compensation for travel related costs outside of the UK including medical expenses, loss of baggage, cancellation, curtailment, rearrangement and change of itinerary Compensation for accidental bodily injury to Employees, governors, trustees, volunteers and pupils of the academy whilst on the business of the academy outside of the UK	Medical expenses £10,000,000 per person Baggage £2,000 per person Cancellation £4,000 per person (£250,000 per trip) Death and capital benefits £100,000 per person	Nil in respect of Medical Expenses £50 in respect of Baggage Nil in respect of Cancellation
Legal expenses	Reimbursement of legal expenses relating to employment disputes, contractual disputes, tax investigations, civil actions in relation to school expulsions	£100,000 any one loss and any one membership year	£250 (Primary Academy) £500 (All other Members) each and every loss
Cultural Assets	Loss or damage to Cultural Assets (including works of	£10,000 per item, maximum £250,000 any one loss of	£50 (Primary Academy) £100 (all other Members)

Type of risk	Description	Limit	Member Retention
	art) owned by or the responsibility of the academy	multiple cultural assets	

We believe that the above coverage of risk by the RPA is commensurate with that offered by commercial insurers. For more details on the risks covered, see the [membership rules](#).

If cover is required for something not included in the RPA, such as motor or cyber security, additional cover is available through several public sector buying organisations (PSBOs) or from an insurer.

The RPA does not cover statutory inspections, often known as engineering inspections, which must be carried out by law. Statutory inspections can be procured through a PSBO, an insurer or body with authorisation to carry out these inspections.

Contract Works are covered up to a limit of £250k to cover minor works. If there is a need to take out Joint Names Cover, the member would have to take out additional cover to extend it as the RPA does not provide cover to a private contractor. However, if the contractor is liable for a loss, the RPA may seek damages from the contractor.

Membership rules

The RPA standard membership rules apply for the majority of academies and free schools. There is a second set of rules for church academies, agreed with the National Society of the Church of England and the Catholic Education Service. The Church rules apply where the trustees of a church organisation allow an academy to occupy their property. Under the Church rules, the trustees are covered for losses and liabilities they may incur through an academy occupying their property. The trustees or school representatives can:

- make claims on the academy's behalf for those losses and liabilities;
- have those claims paid directly to them; and
- use the complaints and arbitration procedures about those claims.

Other than this difference, the rules and level of cover are the same as the standard rules.

It is acknowledged that an additional two or perhaps three sets of membership rules will be required to address the specific requirements of community schools and other, mainly church schools (voluntary aided, voluntary controlled and foundation) within the LAMS sector. These rules will be drafted and discussed with the relevant organisations to ensure they are appropriate.

Claims made/claims occurring

Cover under the RPA generally operates on a 'claims occurring' basis'; as long as the incident giving rise to a claim occurs during the membership year then the RPA will respond, even if the claim is notified outside of the membership year.

Claims under Governors Liability and Professional Indemnity are handled on a 'claims made' basis. For the RPA to respond the claim must be notified to the Third Party Administrator (TPA) during the membership year. This mirrors the cover generally provided by the commercial insurance market and avoids potential gaps in cover for members joining the RPA in circumstances where a claim arises from an incident that occurred prior to the member joining the RPA and of which they were previously aware.

The scope and level of cover provided would be the same for LAMS as that currently provided to ATs with one possible exception: cover for asbestos, legionella and abuse damages under Third Party Public Liability is provided on a 'claims made' basis, including historical claims. For ATs, cover applies back to the date the funding agreement was signed. We are currently considering the scope of level of such cover for LAMS and have yet to make a decision on this.

Membership

It is envisaged that there would be several options for schools to become members of the RPA. An LA could opt in all maintained primary and/or secondary schools to the RPA en masse on the vote of the schools forum. Provision will be made in the Schools and Early Years Finance Regulations 2020 to provide LAs with the vires to deduct the membership fees from the budget shares of all such schools. Individual governing bodies of schools may also decide to join the RPA if they are free to procure their own insurance: in that case the LA will apply a formula factor set out in the regulations to deduct the membership fee. This arrangement will apply to any maintained nursery schools, special schools and pupil referral units that join the RPA.

The governing bodies of LAMS are able to opt out of LA arrangements. However, where a school is tied into a Long Term Agreement (LTA) negotiated by the LA, they may be obliged to wait until it expires or can negotiate an early release.

Church academies are only permitted to join the RPA if they have written approval from their trustees. This would also apply to church LAMS.

It is acknowledged that in most maintained schools the LA will retain ownership of school property and the associated liabilities relating to providing an education service, staff employment and property maintenance and will need to be satisfied with the overall risk cover that a school has in place.

A member may leave the RPA at the end of a membership year by giving at least three months' notice. After a member has left the RPA, they will still be entitled to the benefits relating to the period of membership.

For PFI schools who pay for premises/Building insurance via the PFI Unitary Charge, it is unlikely that they would benefit from joining the RPA. Under the current arrangements

for academies, MATs are allowed to leave them out and this would need to apply to LA PFI schools too.

Risk management support

The RPA provides extensive free risk management support services to members through third party risk management advisory company, Willis Towers Watson. Support includes advice, best practice guidance, template documents (e.g. risk assessment), bulletins on topical issues, on-line training, workshops delivered throughout England, online surveys, risk audits and access to risk managers for specific risk management queries.

The RPA also aims to undertake onsite surveys of 5% of the total membership throughout the academic year. The onsite audits cover a number of risk categories including Health and Safety, Fire and Security. Risk improvement recommendations made during a detailed audit remain open until the member has confirmed compliance. The risk manager who conducted the audit remains in contact with the member until all recommendations are completed. A selected number of members are re-audited, the results of the re-audits so far have demonstrated an improvement in risk management standards.

We intend to seek to develop this aspect of the RPA with LAMS in mind, so that it complements the arrangements currently embedded.

Claim handling and support

Claims are handled by a third party administrator (TPA) TopMark Claims Management Limited. The TPA was appointed under a UK government framework agreement and has a panel of loss adjusters, legal advisers and rehabilitation facilities to assist in the claims administration and provide support to members.

Claims support includes a dedicated portal for claim notification, appointed loss adjusters and legal advisers, rehabilitation facilities and 24 hour contact details in the event of a catastrophic event.

The process of dealing with claims is set out in the membership rules and includes the process followed by the TPA in the event the TPA deems that a loss is not covered. The claims guidelines within the membership rules also set out the process for independent arbitration if a member disagrees with the findings of the TPA.

TopMark handle all loss claims and incidents reported from schools and will continue to do so for LAMS. The LA insurance team could choose to support the school in registering their loss, if required. There is a helpline and email for emergencies and urgent incidents including overseas travel emergencies and incident claims.

It is recognised that LAs retain a responsibility and will therefore need to be informed of the claim experience for their schools. A monthly report of all claims from schools within an LA area would be available.

Local knowledge and support

Support is available to members from the DfE, risk managers, claims handlers and other RPA members and will continue to be available for LAMS. Examples of best practice are shared and members have the chance to network with other members in their geographical area at workshops, which are delivered throughout England. If a school has a particular risk issue they can contact the RPA risk managers who can provide support and/or put them in contact with another member who has faced a similar issue.

Impact on LA insurance teams

A number of comments raised concerns about potential job losses within LA insurance teams. There is no reason why the existing LA insurance team could not continue to provide a service of providing ad hoc general insurance and risk matters to their schools, either for free or for a service fee. This would augment the risk management and claims handling support provided to all the RPA members by Willis Towers Watson and TopMark. It would be for the LA and schools to determine whether they wanted to continue to be involved in this process or allow the schools to deal directly with the third parties. Each LA can choose their own operating model for the RPA.

Loss of LA control

A number of respondents mentioned that the LAs would potentially lose control of funding and decision making in schools to central, rather than local government in the event of a major loss or problem arising. In the event of a loss, the loss adjuster will work with the school and the Department would only become involved in exceptional circumstances. The RPA will have no more say over how claim payments are made than a commercial insurer would. The RPA (or DfE) does not take over control of funding or decision making of any of its members.

As long as the conditions of the RPA membership rules are met the member is entitled to an indemnity. In relation to property damage the RPA Administrator will pay to the member the reinstatement cost of the property at the time of the damage. If the property destroyed is a building this will be the cost of rebuilding. If the building is damaged but not destroyed this will be the cost of repair.

Impact on overall LA insurance portfolio

It is possible that where low risk schools are included in an overall LA insurance policy, their removal may impact on premiums for the remaining high risk areas, such as Highways, Children's Services or Social Care but this form of subsidisation means that the schools are likely to be paying a higher premium than their risk profile would actually warrant.

It should be noted that where a LA has an insurance scheme which is working well for their maintained schools and which they consider to be cost effective, there is no

necessity for them to join the RPA. The RPA is intended to be an alternative to be considered where LAMS consider they are paying too much for cover.

The intention is not for the RPA to be mandated for all LAMS. It will be offered on a voluntary, opt in basis from 1 April 2020 with no penalties for not joining. It will be open to any LA maintained primary or secondary school, not contractually committed to another arrangement; and also open for LAs to join up all their schools after securing approval from the schools forum.

Cover for community use

It was also noted that some schools were used for out of hours activities and non-educational purposes e.g. polling stations and questioned whether the RPA covered these uses.

At the request of the member the RPA will provide an indemnity to any person or organisation to which the member has hired rooms within the school premises where that person or organisation does not have and would not be expected to have public liability insurance.

As long as the property that is damaged or destroyed is owned by or is the responsibility of the member and the conditions of the RPA membership rules are met, then we would expect that the RPA would generally cover these uses in the event that property is damaged or destroyed. If the property destroyed is a building this will be the cost of rebuilding. If the building is damaged but not destroyed this will be the cost of repair.

Funding

The cost of the RPA for academies for 2019/20 is £18 per pupil and it is proposed that LAMS would pay the same amount. LAMSs that join the RPA will be charged an amount per pupil/place for the number of days during the financial year 2020-21 that they are a member. This will be £18 per pupil for mainstream schools (i.e. community, foundation, voluntary schools and maintained nursery schools) and £18 per place for community special and foundation special schools and PRUs. Where a LAMS joins the RPA for part of the financial year, the amount per pupil/place will be pro-rated accordingly using the calculation ($\text{£18} \times \text{number of days until and including 31 March}$) / 365.

It has been decided that the most straightforward funding arrangement is to deduct the membership fees from the LA's DSG. It is intended that the Schools and Early Years Finance (England) Regulations for the funding period 2020-21 will provide LAs with a duty to deduct the membership fees from the budget shares of all schools joining the RPA and to adjust the amount for a school opting in after 1 April, based on the number of days left in the year.

For special academies, we deduct the RPA membership cost per place from the general annual grant (GAG), based on the agreed place number already published. For maintained special schools and pupil referral units, £18 per place will be deducted for

each place planned by the LA in that institution, and the DfE will then deduct the same amount from the LA's DSG. This is to ensure that the members are making an appropriate contribution to the overall cost of risk cover and are paying a contribution based on their actual numbers of places.

In year 1 (2020-21), we do not expect that mass membership through de-delegation will be used, as there is unlikely to be enough time for LAs to agree it with their schools and the schools forum.

Indemnity

The RPA is not insurance, it is a risk protection arrangement and all members pay the same flat rate, regardless of risk. Losses that arise are covered by UK government funds.

As long as the conditions of the membership rules are met and the claim is valid, the member is entitled to indemnity and there is no question that claims would not be met. It has been agreed that in the event of a sustained large scale liability or property loss, any claims arising which could not be met from the RPA surplus would be met from funds within the wider Department or if required, additional funds directly from the Treasury.

Major loss

In the event of a major loss, the RPA and loss adjuster will work with the member (and other parties where applicable) where it is a valid claim and will indemnify the cost of repair, reinstatement or replacement. Further the RPA does not require a property schedule / property values so "average" cannot apply whereby the claim payable is reduced in the event that the property value is below the actual reinstatement value.

Risk management

The cost of the RPA membership is the same for all members, regardless of risk profile. However, any risks identified are addressed and followed up with the individual member.

The RPA is committed to the promotion of risk management; its aim is to achieve consistent and improved risk management standards throughout its membership. The RPA proactively works with its members to identify risks and provide support and guidance in the mitigation of these risks. The entire RPA membership is asked to complete an online risk management survey, which covers a number of risk categories including Health and Safety, Fire and Security. Responses to the online survey are analysed and clarified if responses are not clear. The results of the survey are used to identify risks that require action and support, to identify best practice that can be shared with the membership and to determine general support requirements (e.g. workshops, training, bulletins and guidance documents). Any significant risk issues identified through the online survey are addressed immediately with the member.

One incentive of improved risk management of the RPA membership as a whole is the potential to reduce claim costs which impacts the cost per pupil. Additional costs not covered by insurance or the RPA, such as fines/penalties, negative impact on reputation, may be avoided with improved risk management.

In the past financial year, the RPA has introduced proactive flood and crime resilience schemes and is reinvesting annual operating surpluses into supporting member schools to either improve risk management or to invest in solutions that are likely to reduce future claims (e.g. improve lighting and security measures in areas subject to vandalism and flood protection measures in areas of high flood risk).

Next steps

This government response is being published in advance of implementation of extending the RPA to LAMS from 1 April 2020, and the Schools and Early Years Finance (England) Regulations for the funding period 2020-21 being made.

Annex A: List of organisations that responded to the consultation

A total of 109 organisations responded: 18 organisations asked for their response to remain confidential and 2 organisations omitted their names. Details of the 39 individuals who responded have been withheld. Below are the 89 organisations who agreed to be included in the published response:

ALARM

Aldermaston CE Primary School
All Saints CofE primary Bradford
Association of British Insurers (ABI)
Belle Vale Community Primary School
Bradford Metropolitan District Council
Brighton & Hove City Council
Brimpton CE Primary School
Bury Council
Calderdale Metropolitan Borough Council
Carr Hill High School
Catholic Education Service
Centurion
Chair of the Oxfordshire Schools Forum
Cheshire East Council
City of Wolverhampton Council
Cornwall Council
Devon County Council
Dudley Metropolitan Borough Council
East Riding of Yorkshire Council
East Sussex County Council
Enborne C of E Primary School
Essex County Council
Federation of Hampstead Norreys and Ilsleys Primary School
Federation of St Marys and St Thomas of Canterbury Catholic Primary Schools
Gloucestershire County Council
Halton Borough Council
Hampshire County Council
Henry Chichele Primary School
Hertfordshire County Council
Institute of School Business Leadership
Isle of Wight Council
Kent County Council
Kintbury St Marys CE Primary School
Kirklees Council

Knowsley MBC
LB Bromley
Leeds City Council
Little Heath School
Liverpool City Council
Livingstone Primary School
London Borough of Barking and Dagenham
London Borough of Bexley
London Borough of Hackney
London Borough of Hammersmith & Fulham, Royal Borough of Kensington & Chelsea,
City of Westminster
London Borough of Havering
London Borough of Newham
London Diocesan Board for Schools
Matravers School
Millway Primary School
Milton Keynes Council
Mortimer St John's CE Infant School
Norfolk County Council
North East Lincolnshire Council
North Somerset Council
North Tyneside Council
North Yorkshire County Council
Northamptonshire County Council
Nottinghamshire County Council
Oxfordshire County Council
Palmerston School
Parrenthorn High School
Parsons Down Partnership of Schools
Peterborough City Council
Portsmouth City Council
Preston Primary
Redwell Primary School
Robert Sandilands Primary School
Rochdale BC
Rotherham MBC
Sefton Council
Solihull Metropolitan Borough Council
Southampton City Council
Springfield Primary School
St Helens LA
St Nicholas C of E Primary School
Staffordshire County Council

Stockton on Tees Borough Council
Sutton London Borough Council
The Downs School
Wakefield Council
West Sussex County Council
Westhoughton High School
Westhoughton High School
Whitehills Primary School
Wigan Council
Wiltshire Council
Wirral Council
Zurich Insurance

Annex B: Copy of all consultation questions

Preliminary Questions

1. What is your name? (Where you wish to remain anonymous, please leave blank)
2. What is your email address?

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

3. Are you responding as an individual or as part of an organisation?
 - a. Individual
 - b. Part of an organisation

4. What is the name of your organisation (if applicable)?

5. What type of organisation is this (if applicable)?
 - a. Mainstream local authority maintained school
 - b. Special local authority maintained school
 - c. Academy or free school
 - d. Multi-academy trust
 - e. Independent school
 - f. Independent special school
 - g. Non-maintained special school
 - h. Sector organisation
 - i. Charity
 - j. Local Authority
 - k. Commercial Insurance Provider
 - l. Insurance Body/Organisation
 - m. Other – Please provide organisation details

6. What is your role?
 - a. Governor
 - b. Multi-academy trust member
 - c. Headteacher/ Principal Teacher
 - d. Parent
 - e. Local authority councillor
 - f. Local authority finance officer
 - g. School Business Professional
 - h. Insurance Company Employee
 - i. Industry Expert
 - j. Other – Please provide role details

7. Which local authority are you responding from? (where applicable)

8. Are you happy to be contacted directly about your response?
 - a. Yes
 - b. No

Questions on the consultation

(Please use the comments box to give more details for each question where relevant)

9. Does the proposed RPA cover of Local Authority Maintained Schools impact you or your organisation directly or indirectly? Please let us know what the impact would be, and if this would cause any concerns or issues.

- a. Yes
- b. No
- c. Unsure

10. In principle, do you or your organisation support the proposed extension of RPA cover to Local Authority Maintained Schools?

- a. Yes
- b. No
- c. Unsure

11. Have you any comments on what adjustments you think would be needed to the rules of the RPA to cover the circumstances of Local Authority Maintained Schools?

- a. Yes
- b. No

12. Have you any comments on the proposed arrangements for adjusting budget shares and DSG and amending the regulations in respect of the RPA?

- a. Yes
- b. No

13. Do you wish for your response to remain confidential?

- a. Yes
- b. No



Department
for Education

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Removal of the outstanding exemption

Government consultation

Launch date 10 January 2020

Respond by 24 February 2020

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Introduction

This consultation document seeks views on the exemption from routine inspection that applies to some outstanding schools, colleges and other organisations delivering publicly-funded education and training. Our proposal is that the exemption should be removed. We would like to hear your views.

Who this is for

- Head teachers, teachers and governing boards¹ in maintained nursery schools, maintained schools and academy trusts, including nursery schools, infant schools or first schools, middle schools, junior schools, special schools, Pupil Referral Units (PRUs), studio schools, UTCs, City Technology Colleges, City Colleges for the Technology of the Arts and free schools.
- Principals/ CEOs, their staff and those responsible for governance in General FE colleges, Sixth Form colleges, designated institutions, 16 – 19 academies, independent learning providers (including employer providers), not for profit providers, independent specialist colleges, Higher Education Institutions (HEIs) delivering FE or apprenticeships and local authority providers.
- Local authorities
- Dioceses and other religious authorities
- Parents
- Students
- Employers
- Any other interested individuals or organisations

Issue date

The consultation was issued on 10 January 2020.

Enquiries

Email: outstandingexemption.consultation@education.gov.uk

¹ The board should be taken to mean the accountable body for the school or group of schools: in local authority (LA) maintained schools, this will be the governing body and in an academy trust this will be the board of trustees (committees to whom the board has delegated functions should take account of guidance to *the board*, in so far as the relevant function has been delegated to them).

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: Consultations.Coordinator@education.gov.uk or by telephone: 0370 000 2288 or via the [DfE Contact Us page](#).

Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

The response

The results of the consultation and the Department's response will be [published on GOV.UK](#) in spring 2020.

About this consultation

Some schools, colleges and other organisations delivering publicly-funded education and training² that were rated outstanding by Ofsted at their last inspection are legally exempt from further routine Ofsted inspection. This consultation seeks views on the removal of the exemption. We would like to hear your views.

Respond online

To help us analyse the responses please use the online system wherever possible. Visit www.education.gov.uk/consultations to submit your response.

Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example, because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email it or post it.

By email

outstandingexemption.consultation@education.gov.uk

By post

Megan Tilby
3rd Floor, Department for Education
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Deadline

The consultation closes on 24 February 2020.

² Funded by the Education Skills Funding Agency (ESFA)

Removal of the outstanding exemption

Background

1. Most schools, colleges and other organisations delivering publicly-funded education and training are inspected by Ofsted at regular published frequencies. This is not the case for some:

- a. state-funded mainstream primary schools;
- b. state-funded mainstream secondary schools;
- c. colleges and other organisations delivering publicly-funded education and training

that were judged outstanding by Ofsted at their last inspection. They are legally exempt from any further routine inspection.³

2. The exemption, which has been in place since 2012, currently applies to around 3,600 outstanding schools and around 60⁴ outstanding colleges and other organisations delivering publicly-funded education and training.

3. Although Ofsted cannot routinely inspect these, it can, and does inspect them in particular circumstances.⁵ An inspection may take place, for example, where a complaint or Ofsted's risk assessment process identifies concerns. The proportion of exempt schools, colleges and other organisations delivering publicly-funded education and training visited each year varies. Last year 10% were visited.

³ The Education Act 2011 inserted new powers into the Education Act 2005 and the Education and Inspections Act 2006 for regulations to provide that prescribed classes of schools and institutions within the FE sector and 16-19 academies could be exempt from routine inspection under section 5 of the Education Act 2005 and section 125 of the Education and Inspections Act 2006 respectively in specified circumstances. These are known as "exempt schools" and "exempt institutions".

Under the Education (Exemption from School Inspection) (England) Regulations 2012 (SI 2012/1293) (the School Exemption Regulations), voluntary, community and foundation schools and academy schools, City Technology Colleges and City Colleges for the Technology of the Arts qualify for exemption on the basis of having been judged outstanding by Ofsted at their last full inspection under section 5 of the Education Act 2005. For academy schools that have not been inspected under s.5, the exemption applies where the predecessor school(s) were awarded outstanding in their last s.5 inspection.

Special schools (including special academies), Pupil Referral Units and maintained nursery schools are not exempted from inspection.

Under the Further Education Institutions (Exemption from Inspection) (England) Regulations 2012 (the FE Exemption Regulations), FE colleges, Sixth Form colleges, designated institutions and 16-19 academies qualify for exemption on the basis of having been judged outstanding by Ofsted at their last full inspection. Other colleges and other organisations delivering publicly-funded education and training, including independent learning providers, employer providers and not for profit providers have also been deemed not subject to routine inspection under Ofsted's own policy, treating those in line with the colleges and other organisations delivering publicly-funded education and training within the FE sector and 16-19 academies. Independent specialist providers, local authority providers and higher education institutions delivering FE and apprenticeships continue to be subject to inspection 'within six years from the date of publication of their previous inspection report'.

⁴ There are approximately 60 outstanding colleges and other organisations delivering publicly-funded education and training exempted by the FE Exemption Regulations. There are approximately a further 60 colleges and other organisations delivering publicly-funded education and training that have been exempted from routine inspection as a matter of Ofsted policy (see para 18 for further information).

⁵ Ofsted has the power to inspect exempt schools under s.8 of the Education Act 2005 and exempt colleges and other organisations delivering publicly-funded education and training under section 126 of the Education and Inspections Act 2006.

4. Despite this, the exemption means that some schools, colleges and other organisations have not been inspected by Ofsted since 2006/07. Around 1,000 exempt schools and 22 exempt colleges and other organisations have not been inspected by Ofsted for a decade or longer.

5. On 1 September 2019, the Government announced its intention to remove the exemption for outstanding schools, subject to consultation and parliamentary approval.

6. Subject to the outcome of this consultation, we intend to remove the exemption from routine inspection for outstanding schools, and for outstanding colleges and other organisations delivering publicly-funded education and training, with effect from September 2020.⁶ Regulations, which need to be approved by Parliament, are required to revoke the School and FE Exemption Regulations and changes will also need to be made to the Education (School Inspection) (England) Regulations 2005.⁷

Consultation on removing the outstanding exemption

7. The exemption was intended to recognise and reward high performing schools, colleges and other organisations, allowing them to continue to focus on providing excellence with less intervention, and concentrating inspection where it was needed most. That principle remains important but must be balanced against the need to ensure that inspection arrangements offer an appropriate level of assurance to parents, students, employers, schools, colleges and other organisations delivering publicly-funded education and training, and the public more generally.

8. Many exempt schools, colleges and other organisations delivering publicly-funded education and training have not been inspected for many years – in some cases over a decade. Many of these were inspected under previous Ofsted inspection frameworks, which placed different expectations on them. In some cases, they will have been inspected two or three frameworks ago.

9. In September 2019, Ofsted introduced a new Education Inspection Framework, with a stronger focus on having a broad, balanced and ambitious curriculum for all pupils and students. The new framework evaluates schools,' colleges' and other organisations' strength against what research and evidence says are the most important factors in pupils' and students' education and training.

⁶ With respect to non-exempt colleges and other organisations delivering publicly-funded education and training that have been exempted from routine inspection as a matter of Ofsted policy, it is proposed that they too will then be subject to routine inspection in the same way, by means of a change in Ofsted policy, as set out below.

⁷ SI 2005/2038

10. We believe the exemption is starting to lead to a loss of confidence in the outstanding grade and that parents, students, employers, schools, colleges and other organisations are missing out on having an up to date independent assessment of quality and performance. This can only be addressed by lifting the exemption, and the time is right to make that change.

11. Subject to the outcome of this consultation, we propose to remove the exemption so that all outstanding schools, colleges and other organisations delivering publicly-funded education and training are again inspected in a regular inspection window by Ofsted.

Re-introducing regular inspection for outstanding schools, colleges and other organisations delivering publicly-funded education and training

12. The proposals for re-introducing regular inspections for exempt outstanding schools, colleges and other organisations delivering publicly-funded education and training in this consultation document have been developed in partnership with Ofsted.

13. There are a number of principles underpinning the proposals. The new inspection arrangements should:

- achieve an appropriate balance between focusing inspection activity where it can add the most value and providing assurance that high performance is maintained;
- be proportionate, particularly when compared to the inspection arrangements that apply to schools, colleges and other organisations currently judged good;
- recognise that most schools,⁸ colleges and other organisations are inspected within a five year window of their previous inspection;
- be fair to those directly affected by the change, and the wider sector;
- recognise that some institutions have not been inspected for a considerable time;
- respond to the needs of parents, students and the outstanding institutions, ensuring they have access to up to date independent information; and
- be deliverable and efficient.

⁸ Education (School Inspection) (England) Regs 2005.

Timing and implementation

Timing of first inspections following the lifting of the exemption

14. Subject to this consultation and parliamentary approval, we intend to lift the exemption from September 2020, through amendments to secondary legislation and any necessary instructions from the Secretary of State to Ofsted.⁹ Once the exemption is lifted it is proposed that Ofsted will aim to conduct the first inspection of all schools, colleges and other organisations delivering publicly-funded education and training that were exempt prior to that point within five academic years.

15. Within this period, it is proposed that Ofsted will prioritise schools, colleges and other organisations delivering publicly-funded education and training that have gone the longest since their last inspection, starting with those that have not been inspected for a decade or longer. It will also aim to organise scheduling so that, as far as possible, schools, colleges and other organisations that were last inspected since September 2015 are inspected again within five or six years of their previous inspection. Once this transitional cycle is over, we anticipate that outstanding schools, colleges and other organisations will routinely receive a section 8 inspection (in the case of schools) or a short inspection (in the case of colleges or other organisations), every four or five years.

Proposed approach

Current system for good schools, colleges and other organisations delivering publicly-funded education and training

16. Schools currently receive a section 5 or a section 8 inspection under the Education Inspection Framework (EIF).¹⁰ On a section 5 inspection, inspectors evaluate the school against the full EIF framework and will give the school a grade (outstanding, good, requires improvement or inadequate) for its overall effectiveness, and for its performance against the four key judgements in the EIF. Most schools that were judged good overall, and all those non-exempt schools judged outstanding at their previous inspection, will receive a section 8 inspection instead of a section 5 inspection.¹¹ On a section 8 inspection, inspectors look at specific aspects of the EIF to confirm whether the school remains good, or outstanding in the case of non-exempt schools, and whether safeguarding is effective. Ofsted will either confirm this is the case

⁹ For detail, see footnote 2 above.

¹⁰ [School Inspection Handbook](#), Part 2 and [School Inspection handbook – section 8](#), Part 2.

¹¹ Around 15% of previously good schools are inspected under section 5 on a risk assessed basis.

or, if there is evidence that the school has now improved or declined, will follow up (this can be immediately or up to two years later) with a section 5 inspection.¹²

17. Currently, colleges and other organisations delivering publicly-funded education and training can receive either a full or a short inspection depending on the overall effectiveness judgement at their previous inspection. In a full inspection, inspectors grade the overall effectiveness, the types of provision and the other key judgement areas in accordance with the criteria and grade descriptors found in the Further Education and Skills Inspection Handbook.¹³ Colleges and other organisations judged good at their previous inspection will normally undergo a short inspection (though they may undergo a full inspection if information suggests that this is the most appropriate way forward; for example, if the institution's performance has declined). A short inspection will determine whether the college or other organisation continues to be good for overall effectiveness.

18. Outstanding organisations delivering publicly-funded education and training have been exempted from routine inspection as a matter of Ofsted policy, in alignment with the approach set out in the FE Exemption Regulations. These include outstanding independent learning providers, employer providers and not-for-profit providers. It is proposed that they too will then be subject to routine inspection in the same way as the organisations previously exempted under the regulations. This will be achieved by means of a change in Ofsted policy.

Proposed approach for inspections of currently exempt outstanding schools, colleges and other organisations delivering publicly-funded education and training

19. We propose an approach based on that which applies to schools, colleges and other organisations delivering publicly-funded education and training that are judged good. For schools, Ofsted's approach is that each school receives a section 8 inspection usually every 4 years.¹⁴ This will mean in most schools, there will be at least one inspection during the period that a pupil is attending that school. Colleges and other organisations delivering publicly-funded education and training receive a short inspection within 5 years of the publication date of the last inspection report.

¹² Ofsted has the power to convert a section 8 inspection into a section 5 inspection under s9 EA 2005.

¹³ [Further Education and Skills Inspection Handbook](#), page 9.

¹⁴ Regulation 3 of the Education (School Inspection) (England) Regulations 2005 sets out the required intervals for inspections in schools.

Schools, colleges and other organisations delivering publicly-funded education and training inspected within the last five years

20. Where schools or colleges or other organisations delivering publicly-funded education and training have been inspected and judged outstanding within the last five years,¹⁵ we propose that the first inspection should normally be a section 8 inspection (in the case of schools) or a short inspection (in the case of colleges or other organisations), which seeks to confirm whether the school, college or other organisation remains outstanding.¹⁶ Where the inspection confirms this, the next inspection will normally be a further section 8 inspection or short inspection within the next four to five academic years.

21. If, on the section 8 inspection, inspectors find evidence that the school is no longer outstanding, inspectors will return to conduct a section 5 inspection in the next year or so.

22. If the section 8 inspection identifies serious concerns about a school, Ofsted will convert the inspection to a section 5 inspection, usually within 48 hours.¹⁷

23. With respect to outstanding colleges or other organisations delivering publicly-funded education and training, if, following a short inspection, the inspection team has insufficient evidence to satisfy itself that the college or other organisation remains outstanding, or there are concerns arising from evidence gathered that the college or other organisation may not be outstanding, the short inspection will be extended to a full inspection within 15 working days.

Schools, colleges and other organisations delivering publicly-funded education and training not inspected within the last five years

24. Outstanding schools, colleges and other organisations delivering publicly-funded education and training not inspected within the last five years have, as a result of the exemption, missed at least one framework of inspection. They have therefore missed out for a considerable time on the insight and information a section 5 or full inspection provides. We therefore propose that the first inspection of these (those that were last inspected before September 2015) should be a section 5 inspection (in the case of schools) or a full inspection (in the case of colleges and other organisations).

25. If the inspection judges overall effectiveness to be outstanding or good, the next inspection will normally be a section 8 (in the case of schools) or a short inspection (in

¹⁵ Academic year 2015/16 or later.

¹⁶ A proportion of schools, colleges and other organisations delivering publicly-funded education and training will receive a section 5 or full inspection in the first instance based on Ofsted's risk assessment process.

¹⁷ Section 9 of the Education Act 2005.

the case of colleges or other organisations delivering publicly-funded education and training), which will take place within the next four to five academic years. If the school is judged requires improvement or inadequate, Ofsted's approach will be that another section 5 inspection will take place within 30 months of the publication of the previous section 5 report. If the colleges or other organisation is judged requires improvement it will receive a full inspection within 12 to 30 months. If it is found to be inadequate, it will receive a full inspection within 15 months of the last inspection report (provided it continues to be funded).

Schools that inherited their exempt status from a predecessor school

26. In the case of an exempt school that has never been inspected (because it inherited its exemption from a predecessor school), the date the predecessor school was last inspected will be taken to be the date for the purposes of determining what type of inspection the school will get and when.

16-19 academies that inherited their outstanding status from a predecessor sixth form college

27. In the case of an outstanding 16-19 academy that has never been inspected (because its exemption has carried forward from its former status as an outstanding sixth form college), the date of the publication of the report of the last inspection of the predecessor sixth form college will be taken to be the date for the purposes of determining what type of inspection that academy will get and when.

Further support for schools, colleges and other organisations delivering publicly-funded education and training

28. Ofsted has been running a series of curriculum roadshows designed to share the thinking underlying the education inspection framework (EIF) and the key points from the training that inspectors have received over the past two years. Ofsted recognises that the criteria for 'outstanding' have changed significantly. Ofsted therefore intends to run a further round of roadshows nationally, building on the existing curriculum events and focusing specifically on what it means to be outstanding in each of the judgements in the new framework. They propose to do this in the term prior to the exemption coming to an end.

Questions for consultation

We welcome your views on whether we should remove the exemption for outstanding schools, colleges and other organisations delivering publicly-funded education and training. In particular we invite views on:

Do you agree we should remove the exemption for outstanding schools, which currently means they are not routinely inspected?

Yes

No

Don't know

Not applicable

Comments (optional)

Do you agree we should remove the exemption for outstanding colleges and other organisations delivering publicly-funded education and training, which currently means they are not routinely inspected?

Yes

No

Don't know

Not applicable

Comments (optional)

Do you support our proposed approach for currently exempt outstanding schools set out in paragraphs 19-27?

Yes

No

Don't know

Not applicable

Comments (optional)

Do you support our proposed approach for currently exempt outstanding colleges and other organisations delivering publicly-funded education and training set out in paragraphs 19-27?

Yes

No

Don't know

Not applicable

Comments (optional)

Do you have any other comments on the proposals set out in this consultation?

Comments

Equalities Impact Assessment

This section asks for your help in identifying any potential impacts of our proposals on people sharing the protected characteristics of age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race (including ethnicity), religion or belief, sex, and sexual orientation.

Question on Equalities Impact Assessment

Please provide any representations and/or evidence on the potential impact of our proposals on people sharing protected characteristics for the purposes of the Public Sector Equality Duty (under section 149 of the Equality Act 2010).



Department
for Education

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