# Investing in our 'high needs' young people

September 2018

# Contents

**Information about our approach to financing services for children and young people with high needs, including those with special educational needs and disabilities**

# Introduction

In February 2018 we agreed a budget for our education services which included a commitment that we'd try to reduce the amount we spend on the 'High Needs Block' by around £5 million pounds. This was to deal with the fact that each year this area spends more money than it has available from the Department for Education – much like an overdraft – and we felt that it was important to try and live within our means.

We wanted to do this because we won't always be able to continue overspending and if we don't act then our debt will keep building up. We also wanted to be able to plan for the future to help improve education for, and reduce the potential impact on, children and young people supported by this money.

We planned to fully assess any impact specific savings might have and consult with anyone who might be affected before final decisions were taken.

However, a judge recently decided that we got this wrong. Because this was quite a specific set of proposals that could affect a certain set of children, young people and their families the judge decided that we should have consulted people and fully assessed the possible outcomes of this decision before the February 2018 decision.

We accept the finding of the court and are truly sorry for the concern we caused people in the process.

This short guide explains more about the issue and what we plan to do next. We hope it will both inform and reassure you.

## Want to stay involved?

**If you would like to take part in future consultations on this service, please let us know by:**

Registering online: **www.bristol.gov.uk/consultationhub**

Email: **highneedsblock@bristol.gov.uk**

Post: **High Needs Consultation PO Box 3176 (CH)**
**City Hall, College Green, Bristol BS3 9FS**

Bristol Council's Privacy Notice: **www.bristol.gov.uk/surveyprivacynotice**

# The issue: financial pressure on our High Needs Block

Each year the Government gives us a fixed amount of money to pay for services to help children and young people who have special education needs and disabilities (SEND)* as well as those with the highest level of needs. *See glossary for definitions.

The council does not get to decide how much money it gets from the Government.

This money is known as the High Needs Block, which this year is £51 million pounds. It is part of a larger pot of money that the Government gives to the council which is known as the Dedicated Schools Grant. This money can only be spent on schools and other education services.

For a number of years the money that Government has been giving us has not been enough to pay for the actual cost of providing SEND services and services for young people with the highest needs.

This is because:

- More children and young people now need support than in previous years
- Children and young people now often need more kinds of help than in previous years
- Changes to the law in 2014 brought in new responsibilities and mean that young people up to the age of 25 may need to be supported. Previously support was only available for young people up to the age of 19.

The result of this is a 'deficit', an annual funding shortfall which is a bit like having an overdraft you are not paying off in full.

# What has the council been doing?

We know that these services are very important so we have been spending more money on them than we get from Government.

Since 2014 we have been spending an average of £4 million pounds more per year on these services than we have been given by Government.

We don't think this is a suitable long term solution, so last year we drafted a plan to try and manage the budget, which included reducing the cost of the High Needs Block by around £5 million pounds in 2018/19 to try and live within our means. This plan set out some proposals for how to do this, and we approved the principle when the council set its budget for April 2018 – March 2019.

# Did the council do something wrong?

Yes, with hindsight we did.

We should have given everyone the opportunity to give their views on our proposals for SEND and the High Needs Block budget when we asked for opinions on our wider plans for the council, including our Corporate Strategy and medium term budget. We also should have done more to discover and consider the potential impact of our suggestions before the budget was agreed.

This issue was considered by a High Court judge after two local families challenged how we made the decision. The judge decided that we should have both consulted the public about the proposals and assessed the impact of them before the decision was made. The outcome of the consultation and impact assessments should have been taken into account by councillors when they set the budget.

Because of this the judge 'quashed' the budget for this financial year (2018/19). This means that the original decision no longer stands.

We have apologised and accepted the court's ruling in full.

# What will the council do next?

First and foremost we must re-take a decision on the budget for the High Needs Block so that one exists for this year's budget, which runs from April 2018 – March 2019.

In the meantime we have made sure that we can continue spending money on the services so that children and young people with SEND and the highest needs continue to get the help they need.

The next steps are:

- We plan to hold a Full Council meeting on 13 November 2018 where councillors will re-consider the High Needs Block budget. This time no savings proposals will be put forward for 2018/19. Before this meeting takes place, the recommendation to Full Council will be considered at the council's Cabinet meeting on 2 October.
- Very few of our previous proposals for reducing the deficit have been put in place. Where savings were made because of the decision made at Full Council in February 2018 we are undoing this. These were a reduction in Hospital Education Service* funding, increases in charges to primary schools for placing students in Pupil Referral Units* and funding for Early Intervention Bases* which help students for short periods of time. * See glossary for definitions.
- If approved by councillors in November, we will continue to spend more money than we receive from Government on these services, as has happened in previous years. We are also asking councillors to again approve putting almost £3 million pounds of extra money in to the budget to ease some pressure for this year. This is a one-off proposal for this year. It would be done by moving £2 million pounds from elsewhere in the schools budget and £700,000 from our general budget. The council has already agreed this with schools and got special permission from the Secretary of State for Education to do so. However, this is only a short term fix because we will not always be able to do this and the 'deficit' will need to be repaid.
- Over the next few months we will be developing a new plan to look at how we can improve things for children and young people with SEND and high needs. This will look at many different areas of work and we are putting young people's aspirations at the heart of it.

# What about next year?

In February 2019 we will need to set a new budget, which includes SEND and services for children and young people with the highest needs.

We are not proposing to put any savings proposals forward for the High Needs Block when Full Council considers the 19/20 budget in February.

Once our improvement plan has been developed we will consult everyone who wants to have a say in order to help us make it the best it can possibly be. There will be lots of different ways to get involved and the consultation will be available in different formats including easy read, British Sign Language and Braille.

We do not yet know when we will consult on the plan as we want to take all the time that is needed to get it right.

# What is the council doing to ask the Government for more money?

The council has been asking Government for more money for services to support SEND and young people with complex needs. It is asking for these to be funded in a way that means services are stable for many years ahead. The council wants to work with families to get this message to Government and we are developing some guidance for how families can get involved which will be available on our website soon.

# Glossary – definitions:

## 1. SEND:

Children and young people with special educational needs and disabilities (SEND) have learning difficulties or disabilities that make it harder for them to learn.

The 0-25 SEND Code of Practice 2015 sets out four areas of SEN:

- communicating and interacting
- cognition and learning
- social, emotional and mental health difficulties
- sensory or physical needs

Not all children with special educational needs are considered to be disabled. The Equality Act 2010 describes a disability as: 'A physical or mental impairment, which has a long term (a year or more) and substantial adverse effect on their ability to carry out normal day to day activities'.

This includes sensory impairments, such as those affecting sight or hearing, and long-term conditions such as asthma, epilepsy and cancer.

Children and young people with such conditions don't necessarily have SEN, but there are significant overlaps between disabled children and young people and those with SEN. If a disabled child or young person needs special educational provision they're also covered by the SEN definition.

## 2. Children and young people with the highest needs are:

- Children aged 0 to 5 with SEND whom the local authority decides to support from its high needs budget; some of these children may have EHC plans, but this isn't a requirement
- Pupils aged 5 to 18 (including students who turn 19 on or after 31 August in the academic year in which they study) with high levels of SEND in maintained schools, academies, Further Education, ILPs, SPIs or other settings which receive top-up funding from the high needs budget; most, but not all, of these pupils will have EHC plans
- Students aged 19 to 25 in Further Education institutions, ILPs and SPIs who have an EHC plan and require additional support costing over £6,000; if aged 19 to 25 without an EHC assessment or plan, local authorities must not use their high needs budgets to fund these students
- Compulsory school-age pupils placed in alternative provision by local authorities or schools
- Children and young people who are unable to attend school due to medical reasons

## 3. Education Health and Care Plans

Education, Health and Care (EHC) plans are personalised documents for children and young people up to 25 years old who have special educational needs or disabilities, which mean they have additional needs in education, health and or social care. They replace Statements of SEN and Learning Disability Assessments.

To have an EHCP a child or young person must have special educational needs and or a disability, as defined by the 0-25 SEND Code of Practice 2015. They must also need more help than their school or other education setting, and any health or social care service they're using, can generally provide from their own resources

If a child or young person doesn't have educational needs, they won't have an EHC plan. Social care needs will be met through a care plan. Health needs will be met through a health plan.

## 4. Dedicated Schools Grant

The main elements of the DSG are:

- Schools Block primarily funds mainstream schools.
- Early Years Block primarily funds early education provision in private, voluntary and independent settings, maintained nursery schools, school nursery classes and the education of two year olds from households with low incomes.
- Central Schools Services Block primarily provides funding for core educational support services that affect all schools and academies or their pupils (e.g. admissions, Schools Forum costs, some statutory and regulatory education functions and spending on on-going initiatives that were approved by Schools Forum in the past).
- High Needs Block primarily funds pupils with high needs such as pupils with Special Educational Needs and Disabilities (SEND) who may have Education Health and Care Plans (EHCP), or pupils in Alternative Provision (AP) such as Pupil Referral Units or Hospital Schools.

Information on local authorities' Schools Block, High Needs Block and provisional Early Years Block can be found here:
**https://www.gov.uk/education/local-authority-schools-funding**

## 5. Judicial Review:

This was specifically about how the council set its budget related to the High Needs Block, which supports children with complex needs and SEND.

## 6. Hospital Education Service:

The Bristol Hospital Education Service (BHES) provides education for children and young people (4-16 years old usually) who can't attend school for medical reasons. Much of this teaching takes place at home while students are unwell. Teaching can also take place within hospitals if young people cannot be treated at home and are likely to spend time in hospital for extended periods.

## 7. Pupil Referral Units:

Establishments maintained by a local authority which is specifically organised to provide education for children who are excluded, sick, or otherwise unable to attend a mainstream or special school. PRUs fall under the umbrella term of 'Alternative Provision'.

## 8. Early Intervention Bases:

Alternative provision and Early Intervention Bases (EIB) provide children and young people with an intensive level of support over a short period of time. They can help children and young people facing difficulties to overcome them and re-join a suitable education setting afterwards. This support is available for children and young people with SEND and the highest needs, and individuals without SEND, who present with high levels of challenging behaviour or particularly complex social care needs for set periods of time.