



## **School funding changes and children with SEN in mainstream schools: a briefing for parents**

### **Summary of key points:**

- The school funding arrangements changed in April 2013.
- Support for your child with SEN should not change because of the funding changes.
- School and local authority responsibilities for SEN have not changed.

This briefing provides information about the school funding changes and explains what you should do if a school or local authority proposes to change the special educational provision for your child.

For information and advice about the local arrangements contact your local Parent Partnership Service. Details can be found at [www.parentpartnership.org.uk](http://www.parentpartnership.org.uk) or call 020 7843 6058.

In April 2013 the government made changes to the way that funding is provided to schools. The funding changes do not change the legal responsibilities of schools and local authorities for children with special educational needs (SEN).

The government is also making changes to the SEN system. The changes, currently set out in the Children and Families Bill, will not start to happen until September 2014. Until then, the current SEN framework, the law and the [SEN Code of Practice](#), all stay in place.

## **The new school funding system and SEN**

Funding is agreed locally and is given to schools under three main headings:

### **Element 1: an amount of money for each pupil in the school**

Schools get most of their funding based on the total number of pupils in the school. Every pupil in a school attracts an amount of money. The amount varies from one authority to another. There is usually more funding for each pupil in a secondary school than in a primary school. In 2013, all secondary schools, including academies, are getting at least £3,000 for each pupil and all primary schools are getting at least £2,000 for each pupil.

This is the core budget for each school and it is used to make general provision for all pupils in the school including pupils with SEN.

### **Element 2: the school's notional SEN budget**

Every school receives an additional amount of money to help make special educational provision<sup>1</sup> to meet children's SEN. This is called the 'notional SEN budget'.

The amount in this budget is based on a formula which is agreed between schools and the local authority. The formula usually gives more money to schools that have more children on free school meals and more children who are not doing as well as others in English and Maths. This provides a good guide to how many children with SEN a school is likely to have.

A small number of schools may find they have many more children with SEN than expected. This might happen where, for example, a school has a good reputation for teaching children with SEN. Where this does happen, the school can ask the local authority for additional funding.

The government has recommended that schools should use this notional SEN budget to pay for up to £6,000 worth of special educational provision to meet a child's SEN. Most children with SEN need special educational provision that comes to less than £6,000.

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<sup>1</sup> Special educational provision is anything that is provided to meet a child's SEN that is 'additional to or different from' provision made for all children. The local authority must make sure that the special educational provision specified in a statement is made for the child. For a child at School Action or School Action Plus, the school must use its 'best endeavours' to make sure that special educational provision is made to meet a child's SEN. Schools must also follow the SEN Code of Practice which advises them to involve parents in decisions about how their child's needs are met.

**Reminder:** special educational provision is anything that is 'additional to or different from' the provision that is made for all children. Provision which is for all children is funded from the core budget.

Element 2 is called the notional SEN budget because no-one tells schools exactly how they should spend their money. When funding is delegated to schools, they can spend it in the way they think is best. However, schools have a duty to identify, assess and make special educational provision for all children with SEN; and the local authority has a duty to set out what schools are expected to provide from their delegated budget.<sup>2</sup> This information must be published on the local authority website.<sup>3</sup>

### **Element 3: top-up funding**

If the school can show that a pupil with SEN needs more than £6,000 worth of special educational provision, it can ask the local authority to provide top-up funding to meet the cost of that provision. Where the local authority agrees, the cost is provided from funding held by the local authority in their high needs block.

Element 3 is provided by the local authority for an individual pupil who has a high level of needs and schools are expected to use this funding to make provision for that individual pupil.

### **Academies<sup>4</sup>**

Academies are funded through the Education Funding Agency, not through the local authority. Academies get the same level of funding for each pupil as local authority schools in the same area; their notional SEN budget is worked out in the same way; they can get top-up funding from the local authority in the same way. Academies do get extra funding, but this is not related to SEN: it is for services that Academies have to buy for themselves, services that are provided by the local authority for local authority schools.

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<sup>2</sup> The Special Educational Needs (Provision of Information by Local Education Authorities) (England) Regulations 2001, SI 2218. These can be found on page 189 of SEN Code of Practice.

<sup>3</sup> These requirements will continue when the SEN reforms are implemented. Provision from schools' delegated budgets will form the core of the Local Offer which local authorities will be required to publish.

<sup>4</sup> This includes free schools, City Technology Colleges, University Technical Colleges.

## **Impact on special educational provision**

Changes to the SEN framework will not be made until September 2014 and, even then, they will be phased in over a period of time. School and local authority SEN responsibilities remain the same until then and the school funding changes do not change them.

### **School responsibilities for special educational provision**

Schools must 'use their best endeavours' (do their best) for children with SEN and they must 'have regard to' the SEN Code of Practice (this means they must follow it unless they can show that something else would work better). In addition, Ofsted will check on how well children with SEN are learning and how much progress they are making.

Schools are responsible for identifying and making special educational provision for all children with SEN who do not have a statement. They discuss this with parents. Following a review, provision may need changing and there might be a number of reasons for this. It might be that:

- the child's needs have changed;
- the school has new information about the child's needs;
- the child's needs have been met;
- the child has reached the targets for their learning;
- the child is not reaching their targets;
- there is new evidence about the child's progress;
- the school has a better idea about how to meet the child's needs;
- discussion with the parents shows that a different approach might work better.

Changing the provision because of school funding changes is not in line with the SEN Code of Practice or with schools using their 'best endeavours'.

## **Local authority responsibilities and statements**

For a child with a statement, changes to special educational provision can only be made by amendment to the child's statement. Parents have a right of appeal if they do not agree with the changes that the local authority wants to make.

Changes are usually made following an annual review meeting and a recommendation to the local authority. If the local authority wants to change the statement without an annual review, parents can request a meeting with the local authority to discuss the changes the local authority wants to make.

The point at which a child might need a statutory assessment or a statement remains the same. A statutory assessment can be requested by the parent or by the school. Funding for the provision specified in a statement comes from the local authority's high needs block, along with funding for the first £6,000 worth of provision from the school's notional SEN budget. The school will continue to provide this when they receive top-up funding for a child with a statement.

## **In summary**

In summary, to meet their needs, children with SEN are entitled to:

- core provision from the core funding which is for all children, element 1;
- up to £6,000's worth of extra provision, funded from the school's notional SEN budget, element 2;
- extra provision funded by top-up, from the local authority's high needs block.

## **Some common problems parents have encountered**

### **My local authority wants to change the provision in my child's statement because of the funding changes**

If the local authority wants to change a statement, they must send an amended statement to the parents. If the parents do not agree with the changes, they have a right of appeal.

Changes are usually made following an annual review meeting and a recommendation to the local authority. If there is a reason for changing the statement before the next planned annual review, the date of the annual review can be brought forward. Early annual reviews are usually asked for by the school or the parent because of a sudden change in the child's needs, or a school might ask for an early review because the child's behaviour puts them at risk of being excluded from school.

If the local authority wants to change the statement without an annual review, parents can request a meeting with the local authority to discuss the changes the local authority wants to make.

If your local authority says they want to change the provision in your child's statement:

- Ask them whether they are going to carry out an annual review

If the local authority is not going to carry out a review:

- Ask for a meeting to discuss why they want to change the provision in your child's statement

If the local authority amends the statement and you do not agree with the changes:

- You can ask for a meeting to discuss the changes
- You can appeal against the amended statement to the SEND Tribunal

## **My child's school says that they do not have enough funding to meet the first £6,000 for all the children with SEN at the school**

Schools are expected to pay up to an additional £6,000 for special educational provision to meet a child's SEN. Schools are provided with the notional SEN budget to help them meet these costs but can also draw upon all the resources available to the school.

The school's notional SEN budget is given to the school on the basis of an estimate of the number of children with SEN. If a school feels the local formula has not given them enough funding to meet the needs of children in their school, they will need to talk to the local authority. The local authority can provide additional funding from their high needs block for schools where the formula doesn't reflect levels of SEN.

Reminder: the SEN responsibilities of the school have not changed. They still need to follow the Code of Practice and use their 'best endeavours' to meet children's SEN. The funding changes do not change children's SEN or the special educational provision to be made to meet those needs.

If your school says they do not have enough funding to meet the first £6,000 for all the children with SEN at the school:

- Ask the school whether it has approached the local authority for additional SEN funding

## **My child's school says that they are going to remove support from my child who is currently on School Action or School Action Plus**

Support being provided at School Action or School Action Plus can be changed for a number of reasons but not because of the funding changes. The school may propose changes in special educational provision for a number of reasons. These might include:

- the child's needs have changed;
- the child has reached targets in their learning.

These might be good reasons for removing the provision being made; these situations should be discussed with the parents and the child; any changes should be informed by the views of the parents and the child.

If a school was providing support costing more than £6,000 to a child at School Action or School Action Plus, it may no longer have the funding to provide all the support it was providing before. In this case, the school should apply to the local authority for top-up funding from the high needs block.

If the local authority does not provide top-up funding from the high needs block, and the school can no longer meet the child's needs from the £6,000 they are expected to spend, then a parent should consider asking the local authority to carry out a statutory assessment. This is on the basis that the school may no longer be reasonably expected to make the provision to meet the child's SEN.

If your school is planning to remove support at School Action or School Action Plus:

- Ask the school why they want to remove the provision

If the school cannot show that your child's needs have changed, and they cannot give any other good reason:

- Ask the school whether the support they intend to remove is above or below the £6,000 of special educational provision that schools are expected to pay for

If the support the school is removing is below the £6,000 then you may have a reason for a complaint against the school:

- Ask the school why they feel they cannot meet the first £6,000 of special educational provision

If the support they are removing is above the £6,000 threshold the school should apply for top-up funding from the local authority:

- Ask the school to apply for top-up funding from the local authority; ask them to go on making the special educational provision until they get an answer from the local authority
- Contact the local authority SEN department and explain that the school is going to take away support for your child; ask the local authority whether it is going to provide top-up funding



## **My child's school says that they are going to have to remove support set out in a statement because of the funding changes**

The local authority is under a legal duty to make sure the provision in a statement is made for your child. This duty is not changed by the school funding changes.

The only way the support in a statement can be taken away is if the statement is amended. Parents must be informed of a proposal to amend a statement; parents have a right to appeal if they don't like the changes the local authority wants to make.

The changes to school funding mean that some schools may have less money for statements than they did before. If this is the case, the school should apply to the local authority for top-up funding from the local authority's high needs block. The local authority has to provide all the services in a statement. The local authority needs to either:

- agree with the school the amount of the top-up needed to make the provision in the statement; or
- provide the services themselves.

If your school says it is planning to remove support in your child's statement:

- Contact the local authority and explain that the school is going to remove the support set out in the statement
- Ask the local authority how it will make sure all the provision in the statement is made

## **My local authority is requiring schools to buy in specialist support services they previously provided free**

Under the new funding arrangements, local authorities can still keep funding for specialist SEN support services, such as services to support children with a visual or hearing impairment. Local authorities can hold back funding from schools for 'expenditure on support services for pupils who have a statement of special educational needs and for pupils with special educational needs who do not have such a statement'.<sup>5</sup>

This decision is important. It means that:

- A local authority should not cut specialist SEN services because of changes to school funding; and
- Where local authorities have kept this money, they should provide these services to children free of charge to local authority schools and to academies.

### **June 2013**

<sup>5</sup> The School and Early Years Finance (England) Regulations 2012

#### **Comments on this briefing:**

If you would like to comment on this briefing, please contact Philippa Stobbs at the Council for Disabled Children: [pstobbs@ncb.org.uk](mailto:pstobbs@ncb.org.uk)



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