

## Schools Forum – 27 March 2017

### High Needs National Funding Formula Government Consultation – Stage 2

#### Recommendation

1. That the Schools Forum notes the content of this report.

#### Report of the Director of Finance & Resources

#### PART A

#### Why is it coming here – what decision is required?

2. The Schools Forum has a key role in the oversight of the Schools Budget.

#### Reasons for recommendation

3. To update the Schools Forum on the High Needs Consultation Stage 2.

#### PART B

#### Background

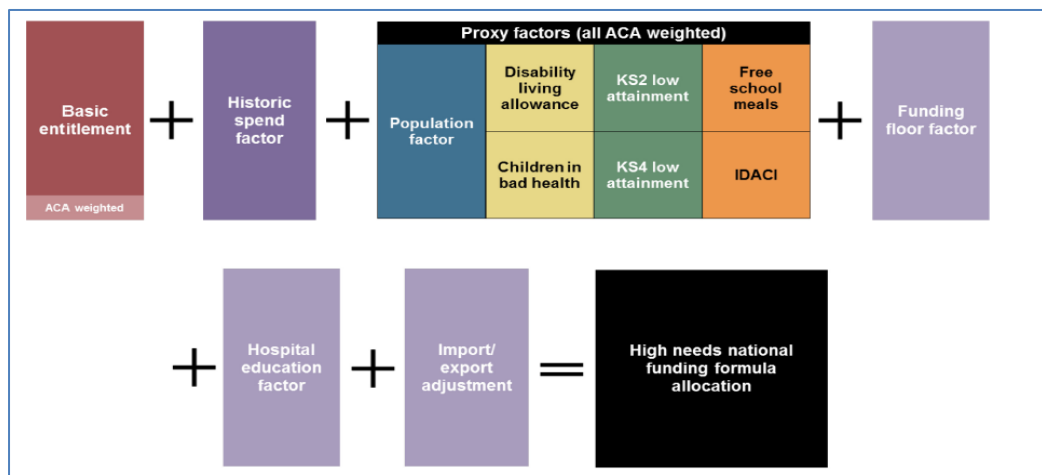
4. The second stage High Needs consultation was issued in December 2016 with responses due back by 22 March 2017. The results and the government's response will be published on GOV.UK in summer 2017.
5. The new formulae will restrict funding within the blocks, with any movement granted with consultation with schools and Schools Forum.

#### New Funding Formula

6. For high needs the second stage confirms:
  - the high needs formula will comprise the 9 factors proposed in the first consultation (see diagram below);
  - summarises the proposals for the relative weighting of the factors
  - summarises the proposals for the funding floors
7. The transition proposals are
  - provide up to 3% increases in 2018-19 and 2019-20 respectively for local authorities due to gain;

- Protect each local authority’s high needs block from any loss;
- Fund all local authorities to prepare and implement strategic plans that enable them to spend their high needs funding in a way that achieves the best outcomes for children and young people with high needs; and
- Provide capital funding to support the expansion of special provision in schools (including mainstream schools) and other institutions, and progress a new route for more special schools to be established through the free schools programme.

8. The formula will be calculated based on the previously proposed 9 factors set out in the table below.



9. High needs funding will also include a hybrid area cost adjustment. However, the balance in the weighting given to general labour market costs and teacher labour market costs will be adjusted to reflect the different balance of spending in special schools.

10. Staffordshire’s position as a consequence of the introduction of the National Funding Formula in relation to neighbouring authorities, shire counties, and CIPFA neighbours is shown in Appendix 1. The graphs show that Staffordshire falls within the top third as part of the gainers, taking into account the funding floor.

11. Staffordshire’s gain if the National Funding Formula is fully implemented is 5.4%. Due to increases being limited, the increase in Year 1 will be a maximum of 3%.

### Positives

12. The benefits of the formula are:

- overall gain if the National Funding Formula were to be fully implemented is 5.4%;
- the authority has gained on all areas of proxy factors apart from deprivation;

- introduction of Hospital Education funding (based on 2016-17 S251 budget return);
- Import / Export adjustments

13. Staffordshire's gain if the National Funding Formula is fully implemented is 5.4%. Due to increases being limited, the increase in Year 1 will be a maximum of 3%.

### Negatives

14. To remain within the overall national high needs budget, the increases for local authorities whose funding has grown under the high needs national funding formula are limited. This means that some local authorities will not initially receive the full formula allocation. Staffordshire will be affected by this so although the gain is 5.4% overall, this will be limited in Year 1 2018-19 to 3% calculated on block baseline. Full allocation will not be achieved until Year 3, but the level of increases are only guaranteed until Year 2, when funding will be reviewed. This could lead to a possible £236k shortfall overall and an increase overall of 5.1%.
15. There will be limited flexibility to move funds between blocks and an additional requirement to get approval to transfer funds via agreement of schools forum and a majority of primary and / or secondary schools and academies (with transfers confined to the primary and secondary elements of the schools block as agreed by phase). This could be a costly all school consultation.
16. Indicative per pupil comparisons (see Appendix 2 (a-d)) show there is uplift in the funding per pupil profile. Although this is the case, indications overall are that the levels of funding for London area based authorities are heavily protected. This could be attributed to the use of historical spend funding for 50% of the formula and the area cost adjustment in benefitting the London authorities.
17. By using a funding floor to protect authorities from cash losses, this could prevent maximum redistribution – i.e. if the funding floor didn't exist would the distribution of funding be fairer and those who were in need of more funding could be in receipt of it.

### Formula Factors

18. As well as ensuring that no local authority will lose funding as a result of the high needs formula, the proposals indicate that for the next four years there will be a significant element of funding allocated to reflect historic spending levels and actual costs of maintaining the provision for those with high needs already placed in schools and colleges. Formula factors are:
- Basic entitlement funding of £4k per pupil (based on pupil numbers in special schools and special academies and subject to an Area Cost adjustment (ACA);
  - Historic spend projections
  - (resident population projections) (50%); }

- Deprivation factors (20%); }
- Health and disability factors (15%) } – subject to  
ACA
- Low attainment factors (15%). }
- A funding floor is applied to all elements apart from basic entitlement;
- Hospital Education bases on S251 budget return;
- Import / Export adjustments

### **Future adjustment proposals – high needs**

19. Although the importance of historic spend has been identified for the formula for the next four years, this will be reviewed to identify how the high needs formula should work in future years looking at:
- Whether the factors in the formula need any adjustment;
  - Whether and the extent to which, in the longer term, the formula should continue to reflect local authorities' actual spending decisions; and,
  - Whether any particular approaches that local authorities take secure better outcomes for young people, and better value for the taxpayer by gathering evidence on how specific kinds of investment in children and young people with SEN and disabilities can achieve outcomes that enhance their lives as they move into adulthood, both to inform future distribution and to help aid local areas commissioning decisions.

### **Impact assessment – how the new formulae would change current budgets**

20. Data has been released to illustrate how the proposed formulae for each of the blocks would change how much each local area would receive for its schools and high needs pupils.
21. Under the proposals 72 local authorities would see an immediate increase of up to 3% in 2018-19. 98 local authorities would have an allocation equal to their formula allocation in the first year, and 113 authorities by the second year.
22. The proposed formula would distribute funding on the basis of the local demography and proxy factors that indicate the level of need amongst children and young people in an area. This would mean, for example, that funding is targeted towards areas of deprivation, reflecting the evidence of a link between deprivation and high needs.
23. A high needs strategic planning fund is being allocated this year, to encourage a review of special provision and plan ahead in light of what the consultation indicates about the level of high needs funding in future years. The expectation is that a strategic plan will be produced for SEN and disability provision, working with schools (mainstream and special), early year's providers and further education providers, and involving parents and young people.
24. Early in 2017 more information is to be provided on the allocation of capital funding for special provision, and set out next steps in the process for

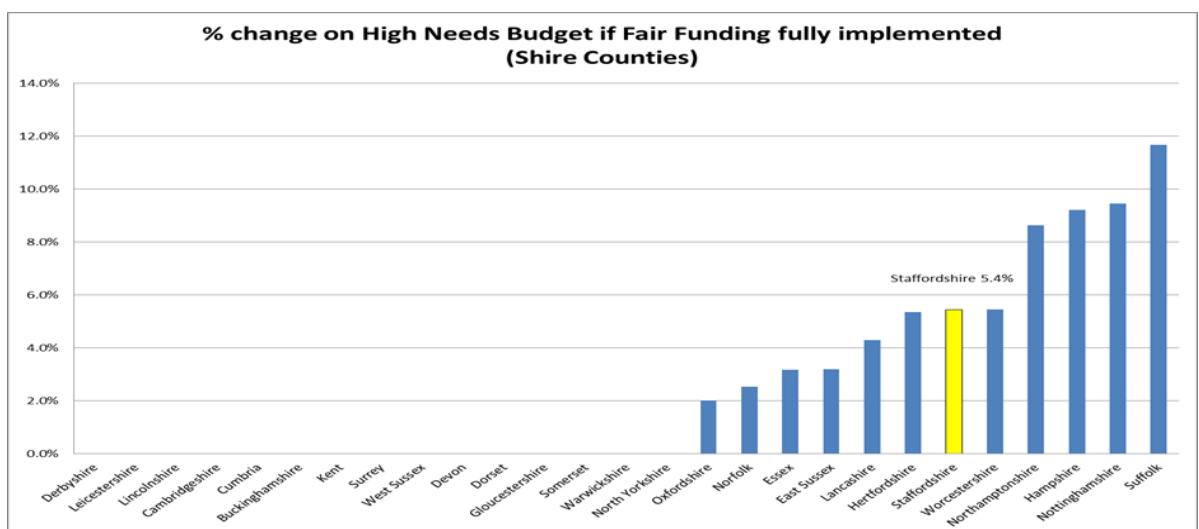
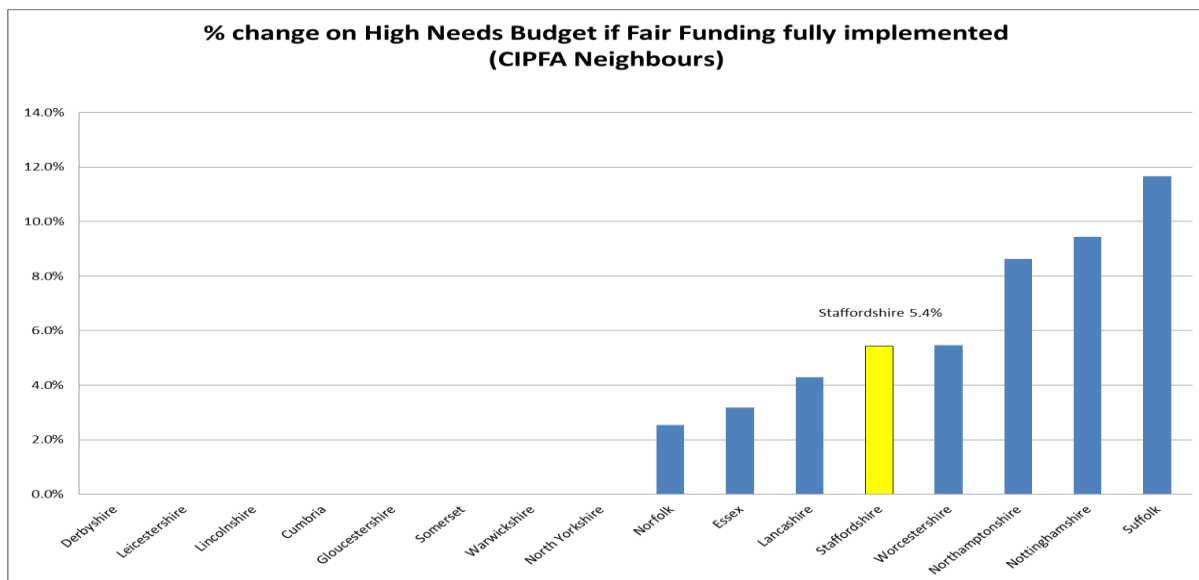
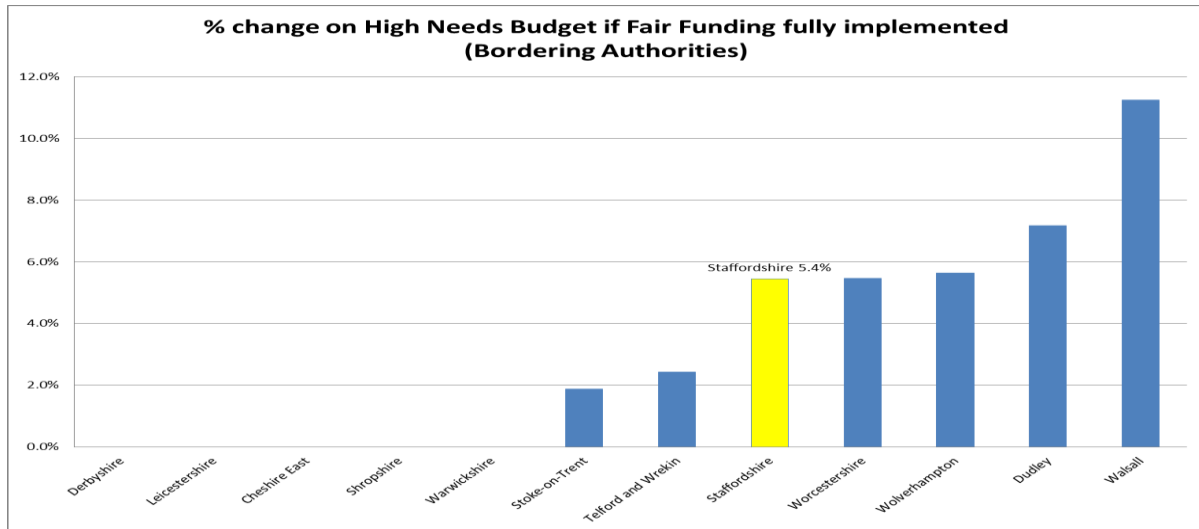
establishing new special schools, where they are needed, funded through the free schools programme.

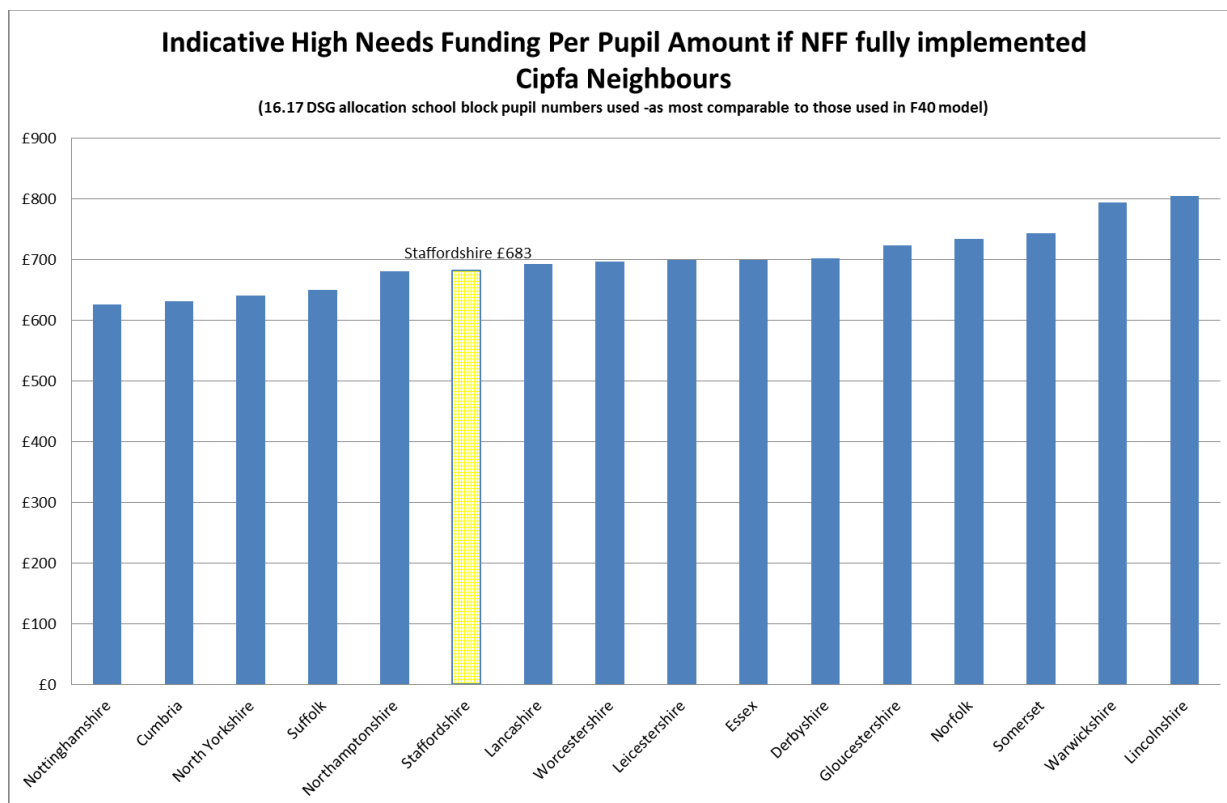
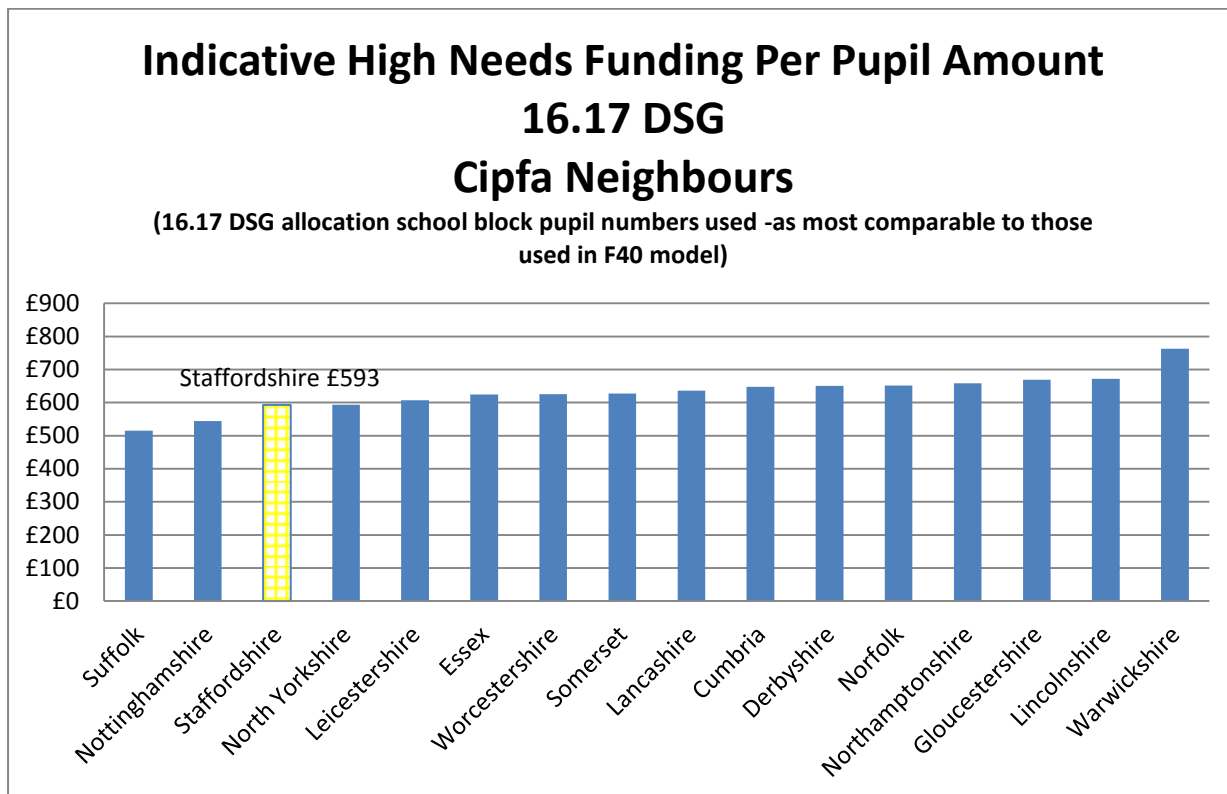
25. The Local Authority draft response to stage 2 of the consultation is included as Appendix 3

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**HIGH NEEDS FUNDING REFORM CONSULTATION STAGE 2 – CLOSING DATE 22<sup>ND</sup> MARCH 2017****Overall Approach****Question 1**

**In designing our national funding formula, we have taken careful steps to balance the principles of fairness and stability. Do you think we have struck the right balance?**

No

Staffordshire County Council (SCC) does not support the view that the national funding formula system proposed achieves the right balance between fairness and stability. We think that it rewards some LAs and penalises others at a time when the majority of LAs are experiencing difficulty managing material unfunded budget pressures.

SCC believes that any new High Needs funding system that is introduced must be sufficient to support the needs of the young people both currently in the system as well as those young people who will access it in the future. The system must therefore be flexible to respond to changes in need.

There still appears to be a lack of evidence as to how the proposed funding aligns with DfE legislation on High Needs pupils, e.g. medical needs and that consideration has been given to tribunal outcomes and case law. The legislation also talks about “parental confidence” and personal budgets, but there doesn’t appear to be any reference to these areas in the consultation.

Further guidance is required on how the funding system will allow for new schools / provision – how will this be funded?

**Question 2**

**We are proposing a formula comprising a number of formula factors with different values and weightings. Do you agree with the following proposals?**

- **Historic spend factor – to allocate to each local authority a sum equal to 50% of its planned spending baseline**

SCC are concerned that if the baseline is taken from 2016-17 it will not reflect local decisions and increases in costs for 2017-18 which most Local Authorities have to manage and fund through transfers from the Schools block.

We believe it to be naive of the DfE to question in the consultation the need of local authorities to transfer further funding from the schools block into High Needs following the rebasing exercise in 2016-17. The High Needs budget pressures experienced by the majority of local authorities is showing no signs of diminishing and therefore it is important that the current historic spend factor, updated for decisions taken locally in 2017-18 is included in the NFF formula.

SCC are unable to comment whether the 50% proposal appears to be right as there doesn’t appear to be any evidence / basis for why the amount is set at 50%?

- **Basic entitlement – to allocate to each local authority £4,000 per pupil**

Allocate a higher amount



SCC think that this should be set at £10k per pupil to reflect the current costs of those pupils already in Special School provision and also to reflect growth in Special School provision that some authorities have invested capital funding into.

SCC disagrees with the DfE's view that by setting the value at £10k becomes a perverse incentive in the funding system for local authorities to place a higher proportion of their children and young people with special educational needs (SEN) and disabilities in special schools. By only setting it at £4k penalises LAs who have already invested heavily into in-house Special School provision to meet the needs of their local children.

In reality LAs will prefer in-house Special School provision as opposed to most costly independent out of county provision, not only as its better value for money, but also it means SEN children spending less time travelling to school.

### Question 3

**We propose to use the following weightings for each of the formula factors listed below, adding up to 100%. Do you agree?**

- **Population – 50%**
- **Free school meals eligibility – 10%**
- **IDACI – 10%**
- **Key stage 2 low attainment – 7.5%**
- **Key stage 4 low attainment – 7.5%**
- **Children in bad health – 7.5%**
- **Disability living allowance – 7.5%**

#### **Population – 50%**

##### **Allocate a higher proportion**

**Please explain your reasoning and any further evidence we should take into account:**

SCC has considered different data sources for distributing High Needs funding, and the one that is preferred as a fair and reasonable basis for distributing funding to LAs is pupil population, as it has a high correlation with overall need at LA level. We therefore fully support the inclusion of this factor in the High Needs formula, but we would like to see a much larger weighting applied to this factor.

#### **Free School Meals (FSM) Eligibility – 10%**

##### **Allocate a lower proportion**

**Please explain your reasoning and any further evidence we should take into account:**

SCC has concerns about the use of this factor and in particular over potential turbulence in the data from one year to the next. We therefore believe that if the Department is to include this factor, they should allocate a lower proportion of the total available funding. This view is supported by our response to question 3 above regarding the use of the general population.

In addition SCC are aware that the 'children in poverty 0-15' indicator is reviewed annually by HMRC and could be used as a possible measure.

**Income Deprivation Affecting Children Index (IDACI) - 10%**

**Allocate a lower proportion**

**Please explain your reasoning and any further evidence we should take into account:**

As above – for FSM

**Key Stage 2 Low Attainment – 7.5%**

**Allocate a lower proportion**

**Please explain your reasoning and any further evidence we should take into account:**

As above - Low attainment at KS2 – what about early developmental issues? There is no national data set for low incidence needs.

**Key Stage 4 Low Attainment – 7.5%**

**Allocate a lower proportion**

**Please explain your reasoning and any further evidence we should take into account:**

As above

**Children in Bad Health – 7.5%**

**Allocate a lower proportion**

**Please explain your reasoning and any further evidence we should take into account:**

“Children not in good health” – ‘DFE Research report: Research on funding for pupils with special education needs’ July 2015 page 47 states Children wellbeing index’ was published in 2009 and not updated since and census data is every 10 years. Therefore there is a considerable lag of information for schools and Local Authorities. This needs to be checked

**Disability Living Allowance – 7.5%**

**Allocate a lower proportion**

**Please explain your reasoning and any further evidence we should take into account:**

SCC are concerned about the use of Disability Living Allowance (DLA) in the High Needs formula as DLAs are self-referred so in our view this is not a sufficient measure. We are also concerned that it some non-physical disabilities take longer to diagnose and therefore believe that DLA may not adequately capture such children.

**Funding Floor**

**Question 4**

**Do you agree with the principle of protecting local authorities from reductions in funding as a result of this formula? This is referred to as a funding floor in this document.**

**Yes but:**

Given national pressures on High Needs funding it is unlikely that any LA could manage with lower levels of funding than they currently receive, so we fully support the principle of a floor that results in no LA losing funding from these proposals.

However we are very concerned about the years following the introduction of a High Needs NFF. Our assumption, in the absence of any information to the contrary, is that LAs in receipt of a funding floor allocation will not receive any share of growth funding in future years until the funding floor protection has been eroded (similar to the way Schools MFG protection works). For some authorities this will mean a number of years of absolute flat High Needs allocation at a time of unprecedented growth. Such authorities may have in the past considered transferring DSG from the Schools block to meet such pressure, but this flexibility is proposed to be removed. So our view is that this is a major concern and one that the DfE needs to reconsider further as there is the real risk that we will see a significant number of LAs looking to cut their High Needs costs to remain within budget (which in practical terms is very difficult once children have been placed) and these cuts will affect some of our most vulnerable children.

#### **Question 5**

**Do you support our proposal to set the funding floor such that no local authority will see a reduction in funding, compared to their spending baseline?**

**Yes**

**Please explain your reasoning and any further evidence we should take into account:**

Yes, SCC supports the setting of the floor so that no LA sees a reduction in their High Needs funding. Our support is on the basis that LAs will be spending their current High Needs allocation and it's very difficult to change the arrangements for children who are already placed and are settled in their school / educational institution.

#### **Question 6**

**Do you agree with our proposals to allow limited flexibility between schools and high needs budgets in 2018-19?**

**No**

**Please explain your reasoning and any further evidence we should take into account:**

Overall SCC are disappointed with the limited flexibility proposals. We believe the additional requirement to now get the majority of schools approval is unnecessary and adds additional bureaucracy at a time of diminishing LA resources. We believe that until the hard NFF is introduced in 2019-20, the transfer of funds between blocks should remain a Forum decision without the need to undertake a costly all school consultation. This facility is an essential option that should be available to LAs to managing the overall DSG system.

In future it is vitally important that the Department / Ministers provide adequate annual increases in the High Needs block to fully fund the year on year pressures.

#### Question 7

**Do you have any suggestions about the level of flexibility we should allow between schools and high needs budgets in 2019-20 and beyond**

We believe that the Department should ensure that future increases in LA high needs blocks should reflect not only inflationary increases, but also pupil growth. If LAs are funded appropriately, there is no need for continued flexibility.

#### Question 8

**Are there further considerations we should be taking into account about the proposed high needs national funding formula?**

It is proposed that the transfer from the High Needs block into Schools block for pupils in Specialist Resource Provision (SRP) is based on place numbers. SCC does not think this is fair and would recommend that this adjustment is based on actual pupil numbers in the SRP instead.

#### Question 9

**Is there any evidence relating to the eight protected characteristics as identified in the Equality Act 2010 that is not included in the Equalities Analysis Impact Assessment and that we should take into account?**

SCC are not aware of any