

## London Borough of Hackney Equality Impact Assessment Form

The Equality Impact Assessment Form is a public document which the Council uses to demonstrate that it has complied with Equality Duty when making and implementing decisions which affect the way the Council works.

The form collates and summarises information which has been used to inform the planning and decision making process.

**All the information needed in this form should have already been considered and should be included in the documentation supporting the decision or initiative, e.g. the delegate powers report, saving template, business case etc.**

Equality Impact Assessments are public documents: remember to use at least 12 point Arial font and plain English.

The form must be reviewed and agreed by the relevant Assistant Director, who is responsible for ensuring it is made publicly available and is in line with guidance. Guidance on completing this form is available on the intranet.

<http://staffroom.hackney.gov.uk/equalities-based-planning-and-decision-making>

**Title of this Equality Impact Assessment:**

Proposed SEND Funding Model

**Purpose of this Equality Impact Assessment:**

To ensure no specific group of pupils with Special Educational Needs and Disabilities (SEND) are adversely affected by the proposed SEND funding model

**Officer Responsible: *(to be completed by the report author)***

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<b>Directorate: Education Services</b>	<b>Department/Division: SEND</b>

**Assistant Director:** Andrew Lee      **Date:** 06.02.18

**Comment :**

## **PLEASE ANSWER THE FOLLOWING QUESTIONS:**

In completing this impact assessment, you should where possible, refer to the main documentation related to this decision rather than trying to draft this assessment in isolation. Please also refer to the attached guidance.

### **STEP 1: DEFINING THE ISSUE**

#### **1. Summarise why you are having to make a new decision**

Demand and costs for funding SEND pupils has risen but the funding allocated has remained the same since 2012/13. This is in the context of a rise in the pupil population of 3.9% compared to 1.7% in London over the period 2007-2016 and an increase in the complexity of needs particularly with Autistic Spectrum Disorder (ASD) and Social Emotional Mental Health (SEMH) needs.

There has been an increase in the number of EHCP plans in Hackney of 34% since 2010, compared to the inner London average of 20%

The introduction of the Children and Family Act 2014 saw eligibility for an EHCP extended from 5-19 years to 0 -25 years and emphasised the importance of co- production and person centred planning in the SEND process.

The financial environment that we operate in remains extremely challenging. We are faced with rapidly diminishing income from the Government and rising costs and demands for services. In the financial year 2010/11 the government gave Hackney a total of £310m of funding to support local services, but since then the amount given to Hackney by the government every year has fallen, so that by 2016/17 it was down to £200m. It is then projected to fall to £171m by 2019/20. This means that in the period 2010/11 to 2020/21 the government's annual grant to Hackney will have fallen by £139m – a cut of 45%.

Against this background of rapidly diminishing external funding and continuing uncertainty over funding levels, we face significant additional cost pressures, that have significantly impacted on the SEND Budget and the current spend on SEND continues to exceed its allocated budget of £41m. This financial year, there is expected to be a budget pressure of £6.1m - an increase on last year's budget pressure. Doing nothing to address SEND funding is not an option. The current and previous variance of the SEND budget has been supported by other HLT budgets and reserves. This is not a sustainable position going forward. The proposal under review is one of a series of actions intended to address this cost pressure.

The proposal being put forward is:

- The introduction of an Additional Funding (AF) model
- The introduction of an Exceptional Funding (EF) model

The intention of the AF model is to provide families/settings with the option of applying for, and receiving additional resources within 6 weeks to meet an identified need. The AF model is intended to be an early intervention approach to support settings to meet the needs of pupils in a timely way. Families and young people would still have recourse to statutory protection if they wanted to apply for an EHC Needs Assessment as is the case now. The Support Plan that would result from this process would be a step in the graduated approach which contributes to the assessment of the severity of children and

young people's needs and the most appropriate and effective provision. If an EHC Needs Assessment was required, the majority of the information required for this would have been gathered at this stage.

The Exceptional Funding (EF) model is intended for those whose presentation and needs are more complex requiring an EHC Needs Assessment and subsequent support via an EHC Plan.

During operational discussions the following options were explored:

- Continue with current arrangements  
Not progressed in view of the need for change given the current budget pressures
- Revise the number and range of Resource Levels  
Not progressed as it was felt that this was not consistent with the ambition of promoting the concept of early intervention
- Devolving funding to settings or clusters of settings.  
Not progressed as this was not considered to be feasible or desirable in the current climate

## 2. Who are the main people that will be affected?

Consider residents, staff, and other

### • Residents

Residents who are parents of SEND children may be affected by this proposal depending on their child's special educational needs. They may seek further/additional funding to meet their child identified needs through the AF model.

Other residents who do not have direct links with SEND pupils may feel affected by the proposal and want to voice their interests or concerns to the proposal of early intervention in SEND. To support community cohesion, we have welcomed contributions from a broad range of residents to the proposals to ensure the fullest engagement across the local council.

### • SEND Pupils

Pupils currently at SEND Support for whom schools and parents may seek further/additional funding to meet their identified special educational needs. This proposal affects pupils and young people from the age of 5 to 16. In terms of age, the under 5's with lower level or emerging needs are able to access funding for support through the Early Years Inclusion Funding which is not covered in this proposal. Those Post 16 are subject to different resource levels and are not included in the proposal either.

### Disabilities

- Children with disabilities who access mainstream school provision are affected by the proposal. Depending on the level of disability, the setting and or the family can consider the AF model as an early intervention approach and apply for this. However there is no reason where there are disabilities that include support from health such as Speech and Language Therapy, Occupational Therapy and Physiotherapy, or nursing support that these cannot be requested direct from these health professionals.

### **Black and Minority Ethnic (BME) pupils**

- The proposal affects all children aged between 5 and 16 irrespective of ethnicity. However, we do know that black boys are more likely to be disproportionately affected by exclusion or educational issues. So this group could potentially be more adversely affected if they are not accessing early interventions or statutory assessments meaning that their needs are not being identified or met in a timely manner leaving them potentially vulnerable to disadvantage caused by unintended consequences in the implementation of the new proposed model.

### **Gender**

- More boys are identified as having SEND than girls as shown in table 1 below. It is unclear at this point whether implementation of the proposed AF model would have a significant impact on assessment requests from a gender equality point of view.

### **Religion**

- Pupils from the community who for the most part attend education settings in the independent sector are not subject to the proposals at this time. The statutory mechanism is still in place to request an EHC needs assessment, and all families, regardless of their religion, would remain entitled to request this.

### **Support Staff**

- Under the proposal, the setting may not have support staff available once needs have been identified and there could be delays in recruiting and securing staff quickly enough thus impacting on their ability to support in the delivery of interventions.

### **Traded Staff**

- If settings have limited budgets or are unable to plan their funding under the proposed AF model, it could result in them being unable to buy in traded services such as Specialist Teaching, Educational Psychology or additional Speech and Language Therapy above their core offer.

### **Parents**

- Parents/carers who have English as an Additional Language, are experiencing mental health difficulties or who have learning difficulties may be unable to fully understand the proposals and so be unable to respond to the consultation or make an informed decision about using the AF route to meet their child's needs over the statutory EHC Needs Assessment process.

### **Other supporting data that show who may be affected**

Given that there is no reliable data at SEND support level, table 1 below, showing pupils currently in receipt of L1- L3 funding provides a proxy indicator of a potential cohort that may come within the remit of this proposal.

The table shows that 463 pupils receive L1 to L3 and of these 360 are boys. The Free school meal indicator also provides some indication of a potential cohort that may come within the remit of this proposal.

Table 1: Break down of mainstream resource level 1 to 5 by gender and Free school Meals

	No of pupils in the summer term 2017	Male	Female	Free school Meals	
				Yes	No
Mainstream:L1	247	182	65	102	145
Mainstream:L2	41	32	9	22	19
Mainstream:L3	175	146	29	59	116
Mainstream:L4	273	214	59	64	209
Mainstream:L5	40	27	13	12	38
<b>TOTAL</b>	<b>776</b>				

Autism Spectrum Disorder (ASD) and Social, Emotional, Mental Health (SEMH) are the growing primary needs in Hackney. Speech and Language Communication Needs (SCLN) is also a feature as outlined in table 2 below that presents highly but is complicated by the fact that is often associated with both ASD and SEMH. Therefore the proposal for AF may affect these primary needs if health colleagues are not alerted to early intervention support being required.

Table 2: Break down of Primary Need against Levels as of Summer 17

Primary Needs	Mainstream L1	Mainstream L2	Mainstream L3	Mainstream L4	Mainstream L5	Total
ASD	46	3	63	110	14	236
HI	1		4	1		6
MLD	56	8	16	29	5	114
MSI			2	1		3
PD	2	1	8	8	6	25
PLMD				5		5
SEMH	28	14	32	50	9	133
SLCN	107	15	41	50	4	217
SLD	2		8	12		22
SPLD	4			3		7
VI	1		1	3	2	7
UNKNOWN				1		1
<b>TOTAL</b>	<b>247</b>	<b>41</b>	<b>175</b>	<b>273</b>	<b>40</b>	<b>776</b>

Hackney is an ethnically diverse borough as shown in Table 3 below with over 149 languages. It is difficult to identify one ethnic group who will be more disadvantage than another under the proposal. It will be a combination of contributory factors that may coincide that can affect them adversely.

Table 3: Breakdown by Ethnicity against mainstream resource levels

Ethnicity breakdown	Mainstream L1	Mainstream L2	Mainstream L3	Mainstream L4	Mainstream L5
ABAN – Bangladeshi	14	1	5	8	
AIND – Indian	5	1	7	3	
AOTH - Any other Asian backgro	5	1	1	5	
APKN – Pakistani	4				1

BAFR - Black African	1			1	
BANN - Black Angolan	3			1	
BAOF - Other Black African	8	2	9	12	
BCON - Black Congolese	16		5	12	1
BCRB - Black Caribbean	35	6	22	31	2
BGHA - Black Ghanaian	9	1	5	11	
BNGN - Black Nigerian	10		13	23	1
BOTH - Any other Black backgro	10	5	14	17	3
BSLN - Black Sierra Leonean	2		1	11	
BSOM - Black Somali	8	1	4	1	
BSUD - Black Sudanese				1	
CHNE - Chinese			1	6	
MOTH - Any other Mixed backgro	11		8	13	4
MWAS - White and Asian			1		1
MWBA - White and Black African	2		3	2	1
MWBC - White and Black Caribbe	8		5	18	4
NOBT - Info not yet obtained	2			5	1
OKRD – Kurdish	5			2	
OAFG – Afghan			1		
OLAM - Latin/South/C American	6		1	3	1
OPEG - Other Ethnic Group	4		1	5	
OOTH - Any other Ethnic Group			1		
OVIE – Vietnamese	2		2	1	
REFU – Refused			1	1	
WALB – Albanian	1				
WEEU - White Eastern Europea	4		2	2	
WENG - White English	32		25	33	8
WEUR - White European	4		3	4	1
WIRI - White Irish	2				
WIRT - Traveller - Irish Herit	3		1	1	
WOTW - White Other	5		5	4	1
WOWB - Other white British				1	1
WTUC - Turkish Cypriot	1		13	2	2
WTUK – Turkish	15		1	15	5
WWEL - White Welsh			1		
WWEU - White Western Europea	1		11	3	1
Unknown	9		1	15	1
<b>TOTAL</b>	<b>247</b>	<b>41</b>	<b>175</b>	<b>273</b>	<b>40</b>

## STEP 2: ANALYSING THE ISSUES

### 3. What information and consultation have you used to inform your decision making?

The following sources of information have been used to inform decision making

- Current data trends of pupils requesting an EHC Needs assessment and those receiving additional funding through an EHC plan
- Data at SEN support level in terms of the provision management map and how settings are using the graduated response of assess, plan, do and review to monitor pupils' progress in response to interventions and support.
- The financial data relating to numbers and costs of placements at Resource Levels 1 to 5
- Mediation and Tribunal data
- Consultation responses
- Consultation workshops (two Parents/cares workshops and one for professionals)
- A number of Local Authorities operate similar systems providing funding to schools in addition to Element 2 and prior to an EHC Plan. These local authorities have models unique to their boroughs. Some historic arrangements similar to the AF model have been in place for a number of years. We are not necessarily comparing like with like but there is a similar thought process behind the decision.

## Equality Impacts

### 4. Identifying the impacts

#### **4 (a) What positive impact could there be overall, on different equality groups, and on cohesion and good relations?**

The aim of the AF approach is to issue targeted funding in response to requests from settings within a 6 weeks turnaround in response to requests from settings to support pupils directly. This is seen as a timely and focused approach aimed at meeting the needs of pupils identified by settings and/or parents/carers. The approach encourages the setting and parent to work together with specialists, utilising the provision map, to identify what area of need the AF will target. This planning will include a mechanism for monitoring progress against the AF provided.

The proposal should not disadvantage any specific group as any pupil will have access to apply for AF. This cohort of pupils will not have an EHC Plan but will have a SEND Support plan. The setting would be responsible and accountable for monitoring the SEND Support Plans.

The positive impact of AF is that it provides a timely response to meet identified need with funding targeted to a request. The workshop undertaken with professionals in particular during the consultation period expressed the view that if AF was a standalone early intervention model, then schools would consider it an option, especially for those pupils for whom the school were clear that they could benefit from additional funding in a targeted way.

The intention is that SENCO's/settings inclusion staff will be given funding for interventions and resources within 6 weeks of the application through AF. At present settings can only access additional resources through the statutory process which can take 20 weeks

It is not the intention of the proposal to imply that current EHC plans would not continue to be maintained under the current system.

It is intended that the new model will enable settings to work in innovative ways to meet individual needs as they arise, prevent escalation and target support where and when it is needed.

The Exceptional Funding (EF) model is intended for those whose presentation and needs are more complex and long term and consequently require an EHC Needs assessment and subsequent support via an EHC Plan. Under the EF proposal the value of EF has been subject to internal recalibration. The values are subject to annual review and can be revised accordingly.

The new model would affect new requests for support from 1<sup>st</sup> April 2018.

#### **4 (b) What negative impact could there be overall, on different equality groups, and on cohesion and good relations?**

*Where you identify potential negative impacts, you must explain how these are justified and/or what actions will be taken to eliminate or mitigate them. These actions should be included in the action plan.*

#### **Statutory code of practice**

Some families may consider they do not have the (statutory) protection afforded by an EHC Plan. It is not the intention of the proposal to take away the family or school's right to request an EHC Needs Assessment under the SEND Code of Practice so their statutory rights are still in place. As long as a setting can demonstrate and evidence ongoing need then the support should continue.

#### **Bureaucracy**

Concerns have been raised that it could result in more administrative work for a setting in demonstrating how the special provision management has been meeting need before they are able to request additional funding. This may be seen as bureaucratic and cumbersome and therefore viewed as negative. However, the fact that through AF, resources can be given within 6 weeks could mitigate the negative impact. Any request for support should be evidence based and therefore by definition involve some bureaucratic process. The application forms for AF are brief and annual resubmissions will also be brief thus requiring much less effort than the statutory EHC Needs Assessment requests and subsequent Annual Review paperwork.

#### **Identification of needs**

AF relies on settings and SENCO's identifying needs as part of an early intervention model, based on the Graduated Approach described in the SEND Code of Practice. There are concerns that factors that can impact on children's needs will not be picked up in a timely manner which may also affect parental confidence. These could be where a setting has high numbers of SEND pupils, or where there are significant wider school issues, or there is a new and possibly less experienced SENCO in place. As AF is intended to help meet the needs of children without following the statutory EHC Needs assessment framework, ongoing Provision Management Training will enable settings and SENCO's to better understand how to use and evidence their use of resources effectively. It is the intention that this will help schools meet the needs of their pupils affected by SEND and improve educational and other life outcomes.

In addition, the Local Authority will need to provide refresher workshops/ briefings and school visits to support settings particularly in the first year of implementation to address any residual concerns about the AF model and the application process and SEND Support Plan operation to build and sustain confidence in the proposed model.

### **Right of a student**

There is no clearly identified group that is more impacted as a result of the proposal. However there is an unknown group who present with lower level of needs at SEND Support who under the Equality Act could be at risk of being disadvantaged. Although the proposal is intended to provide AF to age 16, it is unclear how the difference of opinion between a student and a parent on the type and level of support required could adversely impact negatively as a result of the proposal. It is intended that person centred planning should address differing opinions on meeting needs.

### **Multi-agency advice for holistic assessments**

The current statutory EHC Need Assessment process requires advice from other professional colleagues, particularly those in health services. The AF model does not require this advice in order for schools to take action and implement support. We acknowledge the concerns that this could potentially lead to some health needs not be addressed. However schools/settings and parents can still request health and social care advice to support applications for AF as they currently do for pupils at SEND Support.

The Local Authority has met and agreed with Health providers that they will develop a pathway that will support AF so that they are alerted when an AF application is made.

## **STEP 3: REACHING YOUR DECISION**

### **5. Describe the recommended decision**

There is no clearly identified group that is more impacted as a result of the proposal.

However the cohort of pupils who present with some special educational needs and are described as being at SEND Support, could under the Equality Act potentially be at risk of being disadvantaged.

It is noted that the current consultation has raised anxieties with some sectors of the community. The local area SEND Inspection noted:

*“parents and some provision leaders are concerned about how little they have felt involved in developing strategy for the future funding of services. This has contributed to their fears and uncertainties about ongoing provision for children and young people. This appears to be undermining some of the trust built up through other effective co-production work*

As a result the proposal has affected community cohesion and whilst no other equality impact unduly disadvantages any specific group, it may be prudent to not make a final decision at this stage and undertake further stakeholder engagement work to fully address the perceived negative view of the proposals.

DRAFT

## STEP 4 DELIVERY – MAXIMISING BENEFITS AND MANAGING RISKS

### 6. Equality and Cohesion Action Planning

Please list specific actions which set out how you will address equality and cohesion issues identified by this assessment. For example,

- Steps/ actions you will take to enhance positive impacts identified in section 4 (a)
- Steps/ actions you will take to mitigate against the negative impacts identified in section 4 (b)
- Steps/ actions you will take to improve information and evidence about a specific client group, e.g. at a service level and/or at a Council level by informing the policy team ([equality.diversity@hackney.gov.uk](mailto:equality.diversity@hackney.gov.uk))

All actions should have been identified already and should be included in any action plan connected to the supporting documentation, such as the delegate powers report, saving template or business case.

No	Objective	Actions	Outcomes highlighting how these will be monitored	Timescales / Milestones	Lead Officer
1	Set up a Stakeholder task and finish group to review current resource level arrangements	To review current resource arrangements and agree new model within defined budget	<ul style="list-style-type: none"> <li>• Terms of reference agreed</li> <li>• Approach HiP/other recognised parent group to be representatives to stakeholder group.</li> <li>• Approach relevant stakeholders: school Heads, Governors, SENCO's, professionals to act as reps to stakeholder group</li> <li>• Agree a communication plan to ensure all voices are heard</li> <li>• Clear outline of an agreed Model at end of 6 months</li> <li>• Activity areas to be agreed to achieve outcome</li> </ul>	6 months' timeframe to complete task. Monthly meetings	Andrew Lee Toni Dawodu

2	Review impact on support staff/traded staff	Send out survey to schools re details of support /traded staff within settings	Analyse data returns as to impact of funding in a different way.	2 months to feed into stakeholder activity	Toni Dawodu Kathryn Lloyd Nick Bayse
3					
4					
5					

Remember

- Assistant Directors are responsible for ensuring agreed Equality Impact Assessments are published.
- Equality Impact Assessments are public documents: remember to use at least 12 point Arial font and plain English.
- Make sure that no individuals (staff or residents) can be identified from the data