

## **Wiltshire Council**

### **Children's Select Committee**

**17 January 2023**

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## **High Needs Block Funding Rapid Scrutiny – Final report**

### **Purpose of the report**

1. To present to the Children's Select Committee (CSC) the findings and recommendations from the rapid scrutiny exercise undertaken on High Needs Block (HNB).

### **Membership**

2. Cllr Jo Trigg (lead), Cllr Pauline Church and Cllr Kathryn MacDermid.

### **Terms of reference**

3. The aim of the rapid scrutiny was:

To review the current processes and explore whether there would be value added in establishing a task group to consider options to manage pressures on high needs block budget whilst providing the most appropriate support at the earliest opportunity.

### **Meeting**

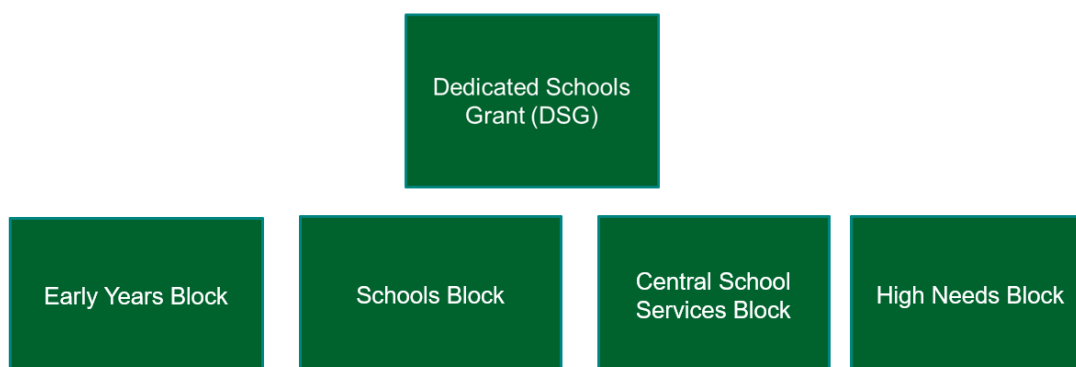
4. There was a single meeting held on Wednesday 9 November 2022.
5. The rapid scrutiny members were grateful to the following officers and Executive Members for their attendance and the information they provided at the meeting:
  - a. Cllr Jane Davies, Cabinet Member for Adult Social Care, Special Educational Needs and Disabilities (SEND) and Inclusion
  - b. Anthony Fennell, Delivering Better Value in SEND Lead
  - c. Cllr Laura Mayes, Deputy Leader and Cabinet Member for Children's Services, Education and Skills
  - d. Cate Mullen, Head of SEND and Inclusion
  - e. Marie Taylor, Head of Finance, Children & Education
  - f. Lucy Townsend, Corporate Director People
  - g. Cllr Suzanne Wickham, Portfolio Holder for SEND (Special Educational Needs and Disabilities) and Inclusion

### **Findings**

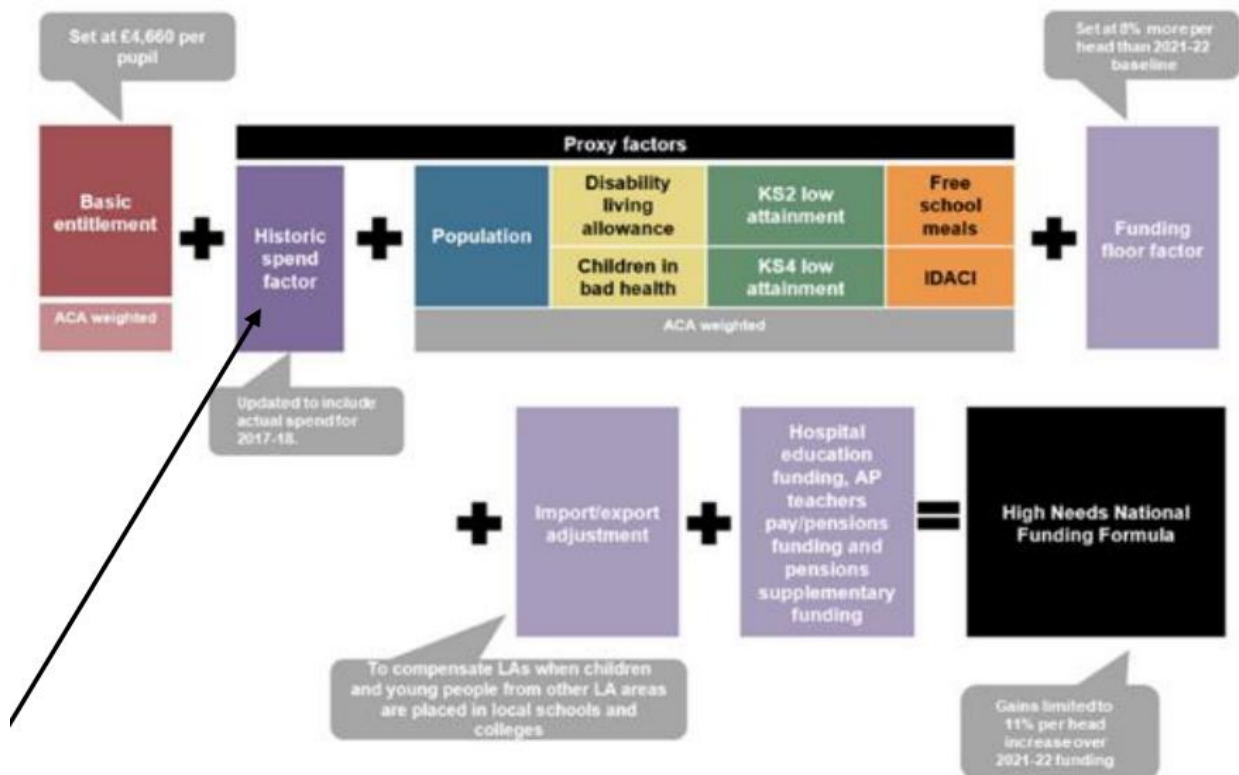
- Members of the Rapid Scrutiny Exercise, thereafter referred to as “members”, received a very comprehensive presentation to provide them with a clearer picture of the current situation in Wiltshire regarding HNB (High Needs Block) funding.

### What is HNB funding

- High needs funding supported provision for pupils and students with SEND, from their early years to age 25, and alternative provision for pre-16 pupils who, because of exclusion, illness, or other reasons, could not receive their education in mainstream classrooms.
- High needs funding is provided to local authorities through HNB of the Dedicated Schools Grant (DSG), enabling them to meet their statutory duties under the Children and Families Act 2014
- HNB was one of four funding blocks within the DSG (Dedicated Schools Grant). The DSG for Wiltshire in financial year 2022/23 was £422m (which it was noted was effectively more than the council's overall budget) and the HNB allocation was £63m (around 15% of DSG).



- Since 2004, there had been limited flexibility for local authorities to re-allocate the DSG between the four blocks, with only a 0.5% transfer to HNB available to the Schools Forum. Any additional or higher transfer of money between the blocks would need to be approved by the Secretary of State. The Wiltshire's Schools Forum have voted to transfer 0.5% from schools block to high needs block for a number of years (since 2018-19 at least).
- HNB is allocated based on National Funding Formula (NFF). There are 12 elements to the high needs NFF which form the basis for local authority HNB allocations. The following diagram shows the funding factors, and complexity, in the high needs NFF.



12. Historic spend – the members’ attention was drawn to the historic spend which created issues for Wiltshire as it was based on actual spend from 2017 to 2018. In 2017 Wiltshire was below national average with regards to numbers of plans (and statements of SEN), whereas in 2021 Wiltshire was above the national average. This meant the historic spend factor had been increasingly discrepant from the needs of young people in Wiltshire.

The Wiltshire picture

13. In Wiltshire, at the time of the meeting, there were 4608 Education, Health and Care Plans (EHCPs) which represented 4% of school age population. An EHCP was a legal, and binding, personalised document. It set out the education, health and social care needs of a child or young person aged 0 to 25 years old with special educational needs or disabilities. It was noted that there had been a constant and significant increase in EHCPs since their introduction in 2015 as shown in the table below.

Total EHCPs in Wiltshire	2015	2016	2017	2018	2019	2020	2021	2022
	1992	2342	2733	2982	3349	3784	4142	4594*

14. The rate of request for Education, Health and Care Needs Assessment (EHCNA) in Wiltshire was also showing continuity in the pressure in demand and anticipated increase year on year (with an exception during Covid-19 in 2020) as shown below. There were over 500 EHCNA underway in Wiltshire at the time of the meeting, with 1001 requests for EHCNA received in 2022.

Year	2016	2017	2018	2019	2020	2021	2022
Number of requests	503	505	690	722	588	737	857
							16% increase from 2021

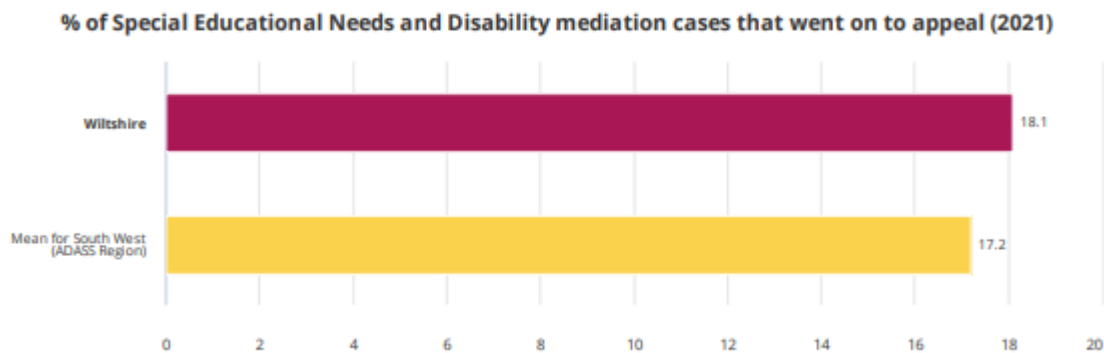
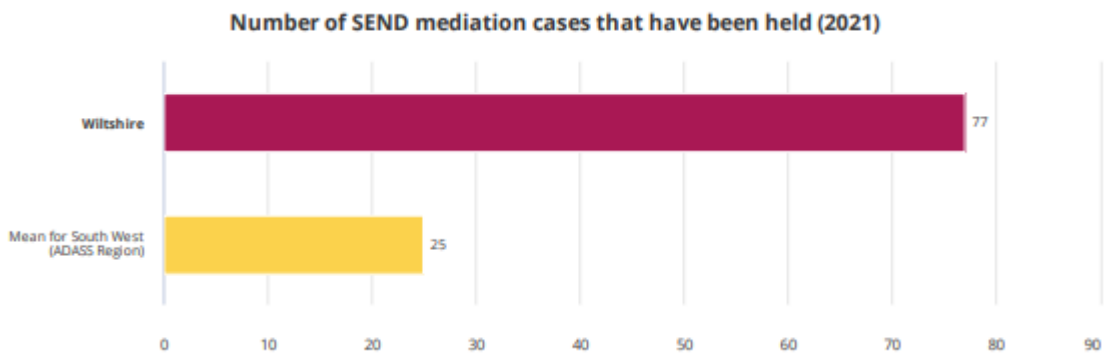
15. EHCNA were the first step in the process of requesting an EHCP, although not all will lead to an EHCP a majority were anticipated to. Members noted that the process for decision making by the SEND Discussion and Decision (DaD) Group was quite innovative and had been co-produced with parent carers (further information on the decision process is provided in Appendix 1).

16. The refusal rate to assess in 2021 was lower in Wiltshire (11.4%) than the average in the South West (19.4%) but it had increased by 3.9% compared to 2020. There were no single or particular reason identified for refusal of EHCNA meaning that there were no identified issues in communication and information to schools, parents, professional, early years setting or young people (who were the sources of EHCNA requests in 2021 and 2022) with regards to the EHCP process. Requests were refused where the information provided indicated that the young person's needs could be met within the resource which were ordinarily available to the school or setting.

17. Five main national challenges highlighted in the LGA / ISOS report 2018 were identified by officers as still relevant to Wiltshire:

- a. Cuts to inclusion support which lead to a downward spiral with reduction in services since 2008,
- b. Around 85% of spend is on places and top-ups with are committed long-term and attached to individual children,
- c. The legal system with some variability in tribunal decisions and lack of clarity on the impact of a recent judicial review,
- d. Limits on borrowing and ability to transfer money or de-delegate which made “invest to save” difficult,
- e. Special schools being largely full, and the difficulties linked to creating new provision, leading to more placements out of area placement or in Independent, Non-Maintained School Settings (higher cost).

18. These pressures were further compounded by a sharp increase in mediation requests and families being legally represented in the dispute resolution process, which meant that officers' time spent on these was effectively diverted from processing EHCNA and / or EHCPs, therefore “feeding” the downward spiral of frustration and negative public perception regarding the timeliness of completing EHCPs, which in turn raised expectations.



Source - [Local area Special Educational Needs and Disabilities report for Wiltshire Council | LG Inform](#)

19. With regards to meeting the twenty-week completion timeliness for EHCNA (including exceptions) Wiltshire, at 24.3%, was performing significantly lower than the South West (49.3%) and national average (57.9%). However, it was noted by members that Wiltshire did have a higher rate of pupils with SEN (2021/22 academic year) at 17.7% than the mean for the South West (16.7%), as well as a higher rate of looked after children with an EHCP (44.8% compared to 37.5%) and Children in Need with an EHCP (32.3% compared to 28.6%).
20. It was explained that the pressures identified in paragraph 17 were experienced nationally, which was corroborated by the background information the members had accessed, but that the added difficulty for Wiltshire was the increasing discrepancy between the historic spend factor of the funding formula and the current, and ever increasing, levels of needs, leading to significant funding pressure and what could be seen as disproportionately unfair funding.
21. In Wiltshire there were 867 places being provided in 3 Special Schools, 339 places in Resource Bases in 18 primary schools and 290 places in Enhanced Learning Provision in 27 secondary schools (only 2 secondary school did not offer Enhanced Learning Provision, both being selective grammar schools).

22. For resource bases and enhanced learning provision funding was paid on the basis of the number of places with an additional top-up reflecting the particular needs of each child as detailed in their EHCP. Place funding was determined by the DfE at £6,000 per filled place per school year but top-up rates were agreed locally by Schools Forum and the current rates in Wiltshire are reflected in the table below (it should be noted there is a level which comes with no funding). Additional funding may also be received by schools depending on each child's circumstances (e.g. deprivation, low attainment, pupil premium, etc.). The principles were broadly similar for special schools but places were funded at £10,000 per place.

<b>Band</b>	<b>L1</b>	<b>U1</b>	<b>L2</b>	<b>U2</b>	<b>3</b>	<b>4</b>
<b>Rate</b>	2,023	4,067	5,569	7,384	10,822	15,796

23. It was positively noted that thanks to resource bases (primary schools) and enhanced learning provision (secondary schools) there were more pupils with an EHCP educated in mainstream schools in Wiltshire in 2022 (49.5%) than the South West (42.1%) and national average (40.4%). And also that NEET (not in education, employment and training) figures in Wiltshire were some way below national and regional average.

#### Mitigating the HNB deficit in Wiltshire

24. It was anticipated the opening of the SAIL school in Salisbury and planned developments at Silverwood would somewhat ease pressure in terms of providing additional places and avoiding higher costs (out of area and / or Independent, non-maintained schools' placements).

25. Members were informed of a plan to develop a provision similar to Resource Bases (currently only available in primary schools) for secondary schools, with pilot ones opening from September 2023. Resources Bases could simplistically be described as "a school within the school" and were designed to provide specialist and therapeutic teaching within a mainstream school. Each school would determine the "specialism" for its resource base, e.g. complex needs, communication and interaction, physical or hearing impairment, etc. (*further information can be access on the council's website [Schools and secondary providers - Local Offer \(wiltshire.gov.uk\)](https://www.wiltshire.gov.uk/schools-and-secondary-providers-local-offer)*).

26. Officers also described their plans to improve on-going monitoring of independent placements and other highest-cost packages whereby savings in excess of £1m had been tracked at pupil level over 12 months. The monitoring of spend was also an issue raised by members with regards to best practice in the way schools would allocate the money they would have received to meet a child's needs.

27. Officers offered reassurance that an exercise to establish a costed provision map for each EHCP was underway. Due to the current number of EHCPs this could not be undertaken for every existing EHCP at present time but was

instigated as part of each new EHC needs assessment as well as any application for re-banding of a current EHCP. This process would enable an oversight of the provision in place for a learner and the costs associated with providing this.

28. The sharing of good-practice as well as exploring a model of collaborative, school-to-school support networks, were already being considered by officers to support schools and help them access effective and implementable information with regards to early intervention, inclusion and improving school attendance.
29. It was noted that Wiltshire Council subscribed to the f40 group – the campaign for fairer funding in education – which undertook lobbying at a national level to seek fairness and equal opportunities in education for all children, regardless of where they live. *Further information can be found on the [f40 group website](#).*
30. The DfE had a series of programmes of support for local authorities with deficit balances. The Safety Valve programme was designed to support 20 local authorities whose deficits were of most concern, Members were informed that Wiltshire would be part of the “Delivering Better Value in SEND” DfE-led programme in partnership with CIPFA and Newton Europe, which was aiming to support local authorities with a deficit to improve delivery of SEND services for children and young people while ensuring services were sustainable.
31. These 55 local authorities, with significant HNB deficits, would be taking part starting in 2022-23. The programme was split into two phases: diagnostic (6 months) and implementation (18 phases) with the DfE proposing Wiltshire diagnostic phase starting in January 2023. [**Note** – since the meeting took place the DfE have accepted a request from officers to defer start date to Summer 2023 to align with local timescales for a programme of SEND transformation].
32. This would be an opportunity for systematic work to identify HNB pressures and cost drivers.
33. Members also noted that there was an existing HNB working group reporting to Wiltshire’s Schools Forum.
34. It was noted by members that although a majority of local authorities experienced HNB deficit some did not. Of the 149 authorities responsible for education in England 77 had responded to the f40 SEND survey in the autumn of 2022. Of the 77 local authorities that responded, 69 expected their SEND budgets to be in deficit for 2020/21, with only eight expecting to have a balance or to finish even. On 5 May 2022, Disability Rights UK stated that “*As of the end of March 2022, there was a high-needs SEND funding black hole in England of £1.3bn - an increase of £465 million. Three quarters of local authorities (LAs) now have SEND funding deficits, some of which have*



*doubled or tripled in the past year*". Source [SEND funding 'black hole' grew by 52% last year | Disability Rights UK](#)

35. The deficit position in Wiltshire was reported to Schools Forum on 9 June 2022 as follows:
- a. The HNB overspend for 2018/19 was £4.8m, 2019-20 was £9.1m, 2020-21 was £11.507m and for 2021-22 was £8.948m which correlates to the continuing rise in request for new Education and Health Care Plans (EHCPs) and banding / funding increases. At the end of the last financial year the DSG reserve held a cumulative £25.973m deficit (includes Early Years adjustment).
  - b. Although the deficit is supported by a recovery plan, this is a long-term programme of change. The requirement for significant additional funding at national level is clear and acknowledged by the DfE.
  - c. The forecast position for 2022-23 is subject to another report but shows an overspend once again and should this come to fruition the DSG deficit reserve will be even greater which is becoming unsustainable for the local authority to cashflow. The latest forecast position showed a HNB overspend of £12m and a forecast DSG deficit reserve at the end of the 2022-23 financial year of £35m.
36. Concerns was shared by all attending the meeting over the current HNB deficit for Wiltshire and the financial implications there could be. Whilst the DfE had given local authorities 3 years in which to address their High Needs deficit, at the end of that 3-year period any debt could become a real issue. Councils were required by law to produce a balanced budget, if they could not find a way to balance expenditure then a Section 114 order would be issued.

## **Conclusions**

37. It should be noted that HNB and EHCP processes are far more complex than represented in this report, but the focus of the rapid scrutiny was to determine whether further scrutiny, through a task group, would add value when considering options to manage pressures on high needs block budget, not to find solutions to these challenges.
38. The rapid scrutiny exercises members concluded that a task group, at this point in time, would be unlikely to add value when considering options to manage pressures on high needs block budget, as reflected in paragraphs 40 and 48 below.

## *Further scrutiny*

39. Although the situation in Wiltshire was concerning with regards to the HNB deficit, there was recognition that, with some exceptions, most local authorities were in the same position. There was no clear panacea for the problem, nonetheless it could be beneficial to have clarity on how some local



authorities managed not to have a deficit, and whether any of the actions they had taken would be applicable for Wiltshire Council. [*Recommendation 1*]

40. Members felt that Wiltshire Council's engagement with the "Delivering better value in SEND" DfE-led programme would provide an in-depth review of the same areas and issues that an overview and scrutiny task group would focus on. A task group would therefore be unlikely to provide added-value and would run the risk of doubling efforts. However, there could be added value in involving an overview and scrutiny councillor in the process, who could provide regular updates to the Children's Select Committee on plans made and actions taken to reduce the HNB deficit [*Recommendation 2*]
41. Although members were concerned over the figures presented regarding timeliness of processing EHNCA, they felt that it would be unlikely that further overview and scrutiny involvement at this time would improve the situation. There was a clear awareness of the issue demonstrated by officers. [*Recommendation 3*]
42. Lobbying was also thoroughly considered by members, in so far as whether it could improve the HNB funding for Wiltshire Council. They concluded that the f40 group provided adequate lobbying on behalf of the council as a whole, however it would be beneficial for councillors to be aware of lobbying processes with regards to education and SEND [*Recommendation 4*].
43. Members felt strongly that young people only got "one shot" at going to school and that their experience of school would have an impact on the whole community in future; therefore each Wiltshire Councillor would benefit from exploring how inclusive the school(s) in their division were. [*Recommendation 4*]

#### *Other actions*

44. Members believed that all councillors could benefit from further understanding of the HNB deficit and potential financial risk to the council during budget consideration [*Recommendation 5*]
45. Members welcomed the proposals on Resource Bases in secondary schools and also wished to recognise the work undertaken by officers to engage with, and support schools, on their inclusivity journey. Members felt it would be beneficial for the committee to receive information on the success of the roll-out of Resource Bases. [*Recommendation 6*]
46. Members wished to express their support for the planned work on costed provision maps. Furthermore, members wondered if some upfront investment in dedicating more officer time to the costed provision maps could provide a longer-term saving for the council with more robust monitoring of effectiveness. Members also felt that it would be beneficial for an update to be provided on the roll-out of costed provision maps. [*Recommendations 7 and 8*]

47. However, members had a remaining concern over performance measurement in terms of how the council could receive assurance, without creating an unnecessary bureaucratic burden for schools, on the appropriate use and effectiveness of the funding allocated for SEND (aside of EHCP funding for which effectiveness would be measured through the costed provision map), however this fell outside of the remit of this exercise.
48. The existence of the HNB working group which reported to Schools Forum further confirmed members' views of the limited benefits of an overview and scrutiny task group on this topic. However, it was felt that there could be better awareness of the existing working group. There may be an opportunity for the HNB working group to refresh its terms of reference and inform the Children's Select Committee of these, and its membership, through one of the regular updates from Schools Forum. [*Recommendation 9*]

## **Recommendations**

### **The task group recommends that the Children's Select Committee**

**Recommendation 1 – approve the establishment of a rapid scrutiny exercise or short-term task group (as two meetings may be required) to collect information on local authorities who have managed to avoid a deficit for their HNB. Once that information is collected it should enable the committee to decide whether or not further scrutiny of Wiltshire Council's approach regarding its HNB deficit would be beneficial.**

**The task group recommends that the Cabinet Member for Children's Services, Education and Skills and / or the Cabinet Member for Adult Social Care, SEND and Inclusion**

**Recommendation 2 – consider offering a place for an overview and scrutiny member on the council's governance body linked with the "Delivering better value in SEND" DfE-led programme.**

**Recommendation 3 – Ensure that the issue of timeliness for EHCP and EHCNA is regularly reviewed by the relevant performance and outcome board and to ask officers to provide a briefing for the chair and vice-chair of the Children's Select Committee in 6 months-time (June / July 2023) on improvements made to timeliness. Members of the rapid scrutiny exercise would also be invited to the briefing. Based on information provided at the briefing a decision could then be made on the benefits of further scrutiny of this particular issue.**

**Recommendation 4 – Raise Wiltshire Councillors' awareness of the lobbying tools available for the young people and school(s) in their division as well as encourage councillors to explore how inclusive the school(s) in their division are. This could be a light touch approach through the regular communications to Councillors or via the Councillors' Hub.**

**Recommendation 5 – Ensure that the HNB deficit and risks associated to it are brought to councillors' attention when they receive information and / or**

training on the budget, as well as when the budget is presented. Consideration could be given to a standalone page, with an explanatory note, as part of the budget papers.

**Recommendation 6 – Provide an update to the Children’s Select Committee in June / July 2024 on the success of Resource Bases in Secondary Schools (as started in September 2023).**

**Recommendation 7 – consider investing more officer time into the roll-out of costed provision maps to enable these to be undertaken for all EHCP within a reasonable timeframe. This may be an “invest to save” approach as it should provide better monitoring of impact and performance.**

**Recommendation 8 – Provide a briefing for the chair and vice-chair of the Children’s Select Committee in 6 months-time (June / July 2023) on the roll-out of costed provision maps. Members of the rapid scrutiny exercise would also be invited to the briefing. *This could be part of the same briefing as proposed in recommendation 3.***

**Recommendation 9 – Use one of the regular updates from Schools Forum to the Children’s Select Committee to provide further information on the HNB working group, including terms of reference and membership.**

Cllr Jo Trigg (Lead) – High Needs Block Funding Rapid Scrutiny

Report dated: 16 December 2022

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Appendix 1 – [SEND - Discussion and Decision Groups \(DaDs\)](#)

### **Background documents**

[Education Policy Institute – High Needs Funding: An overview of the key issues](#)

[f40 \(the Campaign for fairer funding in education\) – a crisis in High Needs](#)

[Have we reached a ‘tipping point’? Trends in spending for children and young people with SEND in England. Isos Partnership \(commissioned July 2018\)](#)