

# Decision Pathway – Report



**PURPOSE:** Key decision

**MEETING:** Cabinet

**DATE:** 02 October 2018

<b>TITLE</b>	<b>High Needs Budget 2018/19</b>	
<b>Ward(s)</b>	<b>ALL</b>	
<b>Authors:</b> Emilie Williams-Jones and David Tully	<b>Job title: SEND Manager (EWJ) and Finance Business Partner (DT)</b>	
<b>Cabinet lead:</b> Cllr Anna Keen	<b>Executive Director lead:</b> Jacqui Jensen, ACE	
<b>Proposal origin:</b> Other		
<b>Decision maker:</b> Cabinet Member		
<b>Decision forum:</b> Cabinet		
<p><b>Purpose of Report:</b> A recent court judgement has had the effect of quashing the original decision on the High Needs budget for 2018/19 taken by Full Council in February 2018. A new decision on the High Needs budget for 2018/19 is needed. This report explains how the proposed budget has been recalculated, on the basis of the original planned savings of £5.1m for High Needs no longer being pursued for 2018/19. Cabinet would determine what budget to recommend to Council when it meets to consider this matter.</p>		
<p><b>Evidence Base:</b> The main content of this report is included in Appendix A, which is the report that was despatched to Schools Forum for its meeting on 25<sup>th</sup> September 2018.</p> <p>The original High Needs budget for 2018/19 of £50.951m will be quashed by a court order. Members, including Full Council, have indicated that the savings being developed for 2018/19 should no longer be a feature of the 2018/19 budget. Officers have, therefore, reverted to past practice in determining the High Needs Budget. This means that the budget is based on the Dedicated Schools Grant, rather than on an assessment of what growth and savings might be needed. The report explains how a figure of £53.905m has been calculated.</p> <p>It may be possible to increase the figure of £53.905m subject to decisions of Schools Forum, It has been asked to advise the Authority on whether it would agree now or defer until year-end:</p> <ul style="list-style-type: none"> <li>i. to transfer the unallocated central services funding in 2018/19 of £0.566m to the High Needs Block; and/or</li> <li>ii. in principle, to transfer any unspent Early Years funding at year-end to the High Needs Block.</li> </ul> <p>This will be advised to Members once Schools Forum has met on 25<sup>th</sup> September 2018.</p> <p>Most of the savings proposals set out in the report to Council on 20<sup>th</sup> February had not been pursued for 2018/19 and it is proposed that those which had are unwound as detailed in Appendix A.</p> <p>The latest forecast (Period 4) for 2018/19 suggests spend by year-end of £54.5m, which incorporates the impact of undelivered and unwound savings. Members will be able to consider any balance on the High Needs Block in the context of the overall DSG as part of the consideration of the Council's final accounts for 2018/19 at year-end.</p>		
<b>Recommendations:</b>		
<ol style="list-style-type: none"> <li>1. Subject to feedback from Schools Forum's consideration of this matter on 25<sup>th</sup> September 2018, Cabinet recommends a High Needs Budget of £53.905m for 2018/19 financial year.</li> </ol>		

**Corporate Strategy alignment:**

- **Empowering and Caring:** Safeguarding and promoting the welfare of children and young people with SEND and equipping the children and young people in our care with the skills and tools to live fulfilling, successful, and rewarding lives.
- **Fair and Inclusive:** Demonstrating due regard to the need to eliminate discrimination, advance equality of opportunity and continue to improve outcomes across education, health and social care for children and young people with Special Educational Needs and/ or Disabilities aged 0-25 years. To ensure everyone has access to a high quality education with appropriate levels of support and resources. Reducing in the gap between disadvantaged pupils (including pupils with special educational needs, disability and children in care) and the Bristol Average at Key Stage 4. An increase in the proportion of young people who have experience of work/apprenticeship by school age 16.
- **Well connected:** Supporting social inclusion and community cohesion for children and young people with SEND, and their families.
- **Wellbeing:** Children and young people with SEND aged 0-25 years and their families will have access to appropriate support for their needs from birth and will be better able to co- ordinate support around the child, achieve better outcomes and make firm plans for their future. Encourage life-long learning in environments where both academic and emotional development are understood and delivered together and increase overall educational performance.

**City Benefits:** These proposals aim to minimise any impacts on groups by reverting to the policy position which prevailed prior to this financial year.

**Consultation Details:** Schools Forum is being consulted on the proposed basis of the calculation for revising the High Needs Budget for 2018/19.

<b>Revenue Cost</b>	<b>£53.905m</b>	<b>Source of Revenue Funding</b>	£51m High Needs DSG, £2m Schools Block DSG, £0.7m General Fund, £0.2m brought forward DSG funding for Early Help.
<b>Capital Cost</b>	<b>£Nil</b>	<b>Source of Capital Funding</b>	N/A
<b>One off cost</b> <input checked="" type="checkbox"/>	<b>Ongoing cost</b> <input checked="" type="checkbox"/>	<b>Saving Proposal</b> <input type="checkbox"/>	<b>Income generation proposal</b> <input type="checkbox"/>

**Required information to be completed by Financial/Legal/ICT/ HR partners:**

**1. Finance Advice:** The original decision on the High Needs budget, made at Council in February 2018 has been quashed by way of a judicial review judgement. This report sets out the current position in 2018/19 on the High Needs budget and how a revised budget to replace the original one has been calculated.

This report is proposing to reset the financial arrangements for the High Needs Block to the policy position which prevailed prior to the February 2018 Council decision. The High Needs Block includes services which are sensitive to changes in the circumstances of individual children and young people. Demand and cost fluctuations can and do occur, so the current budget forecast position may change during the rest of this financial year.

The report explains that the Authority will have to meet the claimants' legal costs, as a consequence of the court order, which will be met from Council reserves. There will be on-going impacts on resources (estimated to cost in the region of £0.225m, beyond what might normally be necessary) to develop service improvements that fit within the budget and service planning for the High Needs Block, including any future public consultation that may be required.

**Finance Business Partner:** David Tully, Finance Business Partner ACE 17<sup>th</sup> September 2018

**2. Legal Advice:** The Council's decision to set the high needs budget (HNB) was successfully challenged by way of a judicial review claim. The outcome of the case is that the HNB budget decision for 2018/2019 will be quashed. The basis of the decision is set out in Appendix 1. It is therefore necessary for the Council to make a new budget decision for 2018/2019 and it is proposed that this will be taken at the Full Council meeting in November.

The matters which Cabinet is required to take into account include the following:-

(1) The Public Sector Equality Duty which requires Cabinet to have due regard to the need to (1) eliminate unlawful discrimination against people with a protected characteristic; (2) advance equality of opportunity between persons who share a protected characteristic and persons who do not share it; (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The Equalities Impact Assessment provides an analysis for this purpose. It concludes that a recommendation to Full Council of a High Needs Budget of £53.905m (as proposed in this report) would not have adverse impacts because it would involve the withdrawal or unwinding of the savings measures which formed the basis of the quashed budget of 20th February. A high needs budget of £53.905m would also be higher than the outturn high needs spend for 2017/2018 of £53.087m.

(2) Section 11 of the Children Act 2004 which says that in taking decisions such as the one now before Cabinet, members must have regard to the need to safeguard and promote the welfare of children.

(3) The Corporate Strategy's aims of tackling inequality in educational outcomes and achievement gaps for disadvantaged children, including children with special needs and disabilities and from some minority groups.

#### Consultation

In the judicial review claim against the Council, the judge decided that, for a number of different reasons, the Council should have consulted relevant people and organisations, and considered impacts on them including equalities impacts, before setting a High Needs budget for 2018/19 which was based on savings measures which might affect them. If (as officers recommend) Cabinet decides to recommend to Council that the budget for 2018/19 should be re-set at £53.905m, this would be on the basis that those savings measures are cancelled or unwound. For that reason the duty of consultation should not arise because the negative impacts about which the claimants were concerned would be reversed. (However regardless of this, it is still necessary for Cabinet to comply with the duties in (1) and (2) above, and take into account the Corporate Strategy.)

If, on the other hand, Cabinet recommended to full Council that the budget be re-set on the basis that some or all of the savings measures should still go ahead in 2018/19, then full Council would be very likely to have to consult before deciding whether to accept such a recommendation.

**Legal Team Leader:** Sarah Sharland, Senior Solicitor 21<sup>st</sup> September 2018

**3. Implications on IT:** There are no IT Implications associated with this proposal.

**IT Team Leader:** Ian Gale, Head of IT

**4. HR Advice:** The current proposals to reset the financial arrangements for the High Needs Block budget and to overturn the cabinet decision regarding the budget do not have any HR implications as it is currently presented.

**HR Partner:** Lorna Laing, People & Culture Business Partner, 20th September 2018

<b>EDM Sign-off</b>	Jacqui Jensen, Executive Director, ACE	18 <sup>th</sup> September 2018
<b>Cabinet Member sign-off</b>	Councillor Anna Keen	18 <sup>th</sup> September 2018
<b>CLB Sign-off</b>	Denise Murray, Service Director Finance	18 <sup>th</sup> September 2018
<b>For Key Decisions - Mayor's Office sign-off</b>	Mayor's Office	19 <sup>th</sup> September 2018

<b>Appendix A – Further essential background / detail on the proposal</b> This is the report presented to Schools Forum on this matter on 25 <sup>th</sup> September 2018	<b>YES</b>
<b>Appendix B – Details of consultation carried out - internal and external</b>	<b>NO</b>
<b>Appendix C – Summary of any engagement with scrutiny</b>	<b>NO</b>
<b>Appendix D – Risk assessment</b>	<b>NO</b>
<b>Appendix E – Equalities screening / impact assessment of proposal</b>	<b>YES</b>

<b>Appendix F – Eco-impact screening/ impact assessment of proposal</b>	<b>NO</b>
<b>Appendix G – Financial Advice</b>	<b>NO</b>
<b>Appendix H – Legal Advice</b>	<b>NO</b>
<b>Appendix I – Combined Background papers</b>	<b>NO</b>
<b>Appendix J – Exempt Information</b>	<b>NO</b>
<b>Appendix K – HR advice</b>	<b>NO</b>
<b>Appendix L – ICT</b>	<b>NO</b>