



Department  
for Education

# National funding formula: equality analysis

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# The public sector equality duty

1. The Equality Act 2010 identifies the following as protected characteristics for the public sector equality duty:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race (including ethnicity)
- religion or belief
- sex
- sexual orientation

2. Under Section 149 of the Equality Act 2010, the Secretary of State is under a duty to have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
  - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
  - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
  - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
  - i. tackle prejudice
  - ii. promote understanding

## What we are proposing in this consultation package

3. This package of consultation documents sets out proposals to allocate dedicated schools grant funding for school and high needs provision on a formulaic basis from 2017-18 onwards. In the case for change and consultation summary document, we explain why we believe there is a pressing need for reform to the way in which funding is allocated. It is our view that the current system is simply not fit for purpose: allocations to local authorities are based on a historic assessment that has not kept pace with demographic change, which means that providers supporting children and young people with similar characteristics receive varying amounts of funding. We want to move to a funding system where allocations are calculated consistently, based on factors that evidence shows can create barriers to children's attainment and outcomes. By properly matching the allocation of funding to need, we will be placing the education system as a whole in the best position to ensure that all children and young people, regardless of their location, prior attainment or background, can achieve to the best of their ability, and thus to provide educational excellence everywhere.

4. The table below summarises the key reforms we are proposing in this consultation in relation to the two existing blocks of the dedicated schools grant, which is the department's main funding stream for educational provision.

Schools proposals	High needs proposals
<ul style="list-style-type: none"> <li>• To introduce a national funding formula for schools from 2017-18. Funding would be allocated to local authorities to distribute for the first 2 years, and then allocated directly to schools from 2019-20</li> <li>• To use 4 building blocks for the formula: per pupil costs; additional needs costs; school costs; and geographic costs</li> <li>• To allocate funding for premises factors, growth and business rates to local authorities in 2017-18 and 2018-19 on the basis of historic spend, for them to distribute at local level</li> <li>• To ensure stability by retaining the 'minimum funding guarantee'</li> <li>• To provide practical help for schools, including through a restructuring fund</li> <li>• To create a new 'central schools block' to fund the ongoing duties local authorities hold for both maintained schools and academies</li> </ul>	<ul style="list-style-type: none"> <li>• To introduce a national funding formula for high needs from 2017-18</li> <li>• To use factors in the formula including population; health; disability; low attainment; and deprivation</li> <li>• To continue to allocate funding to local authorities for high needs, but on a formula basis</li> <li>• To ensure stability by retaining a significant element of funding based on what local authorities are currently spending, and capping the gains and losses of local authorities each year</li> <li>• To provide financial and practical help to authorities to assist them in reshaping their provision, including capital funding for new specialist places and new special free schools</li> </ul>

5. These reforms do not in themselves propose any change in the relative balance of funding between schools and high needs compared to current spending patterns, on top of the real terms protection of the core schools and high needs budget set out in the spending review<sup>1</sup>.

6. The introduction of the national funding formula will mean that funding is allocated fairly and predominantly on the basis of pupil characteristics. Individual schools and high needs providers will continue to decide how best to use their budgets in support of all their pupils, regardless of whether an individual pupil's particular characteristics triggered additional funding.

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<sup>1</sup>HM Treasury, ['Spending Review and Autumn Statement 2015'](#), 25 November 2015

## Consideration of the protected characteristics identified in the Equality Act 2010

7. This is an assessment, pursuant to the public sector equality duty, of the potential impact of the proposals set out in the schools national funding formula consultation and the high needs funding formula and other reforms consultation. The Equality Act 2010 identifies eight protected characteristics, as set out in paragraph 1. Our initial assessment is that our funding reform proposals may impact positively on pupils with a disability by improving the equality of funding, and we have no evidence to suggest there will be a negative impact on the remaining protected characteristics.

### Age

8. The public sector equality duty, so far as it concerns age, does not apply to the exercise of a function relating to the provision of education to pupils in schools<sup>2</sup>. We are not aware of any evidence that introducing a national funding formula would impact upon people of particular ages disproportionately.

### Sex

9. We have considered whether our proposals could affect the protected characteristic of sex. While we recognise that there is an attainment gap between boys and girls<sup>3</sup> we are not aware of evidence suggesting that funding levels disproportionately benefit a particular sex. When we introduce a national funding formula, we are proposing to replicate the current funding arrangements for schools and high needs by not differentiating funding levels on the basis of gender. We believe that a fair and transparent funding system should support schools, providers and local authorities to give *all* pupils the best possible opportunity to maximise their potential.

### Gender reassignment, pregnancy and sexual orientation

10. Our view is that there is no direct link between the funding reform proposals set out in this consultation and the protected characteristics of gender reassignment, pregnancy or sexual orientation. We are not aware of any evidence indicating that funding levels in the schools or high needs sectors would differentially affect children and young people with these characteristics and therefore we do not believe there to be any

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<sup>2</sup> Schedule 18 of [the Equalities Act 2010](#)

See also the Department for Education, '[Equality Act 2010: advice for schools](#)', June 2014

<sup>3</sup> Department for Education, '[National curriculum assessments at Key Stage 2: 2015 \(revised\)](#)', December 2015

Department for Education, '[Revised GCSE and equivalent results in England: 2014 to 2015](#)', January 2016

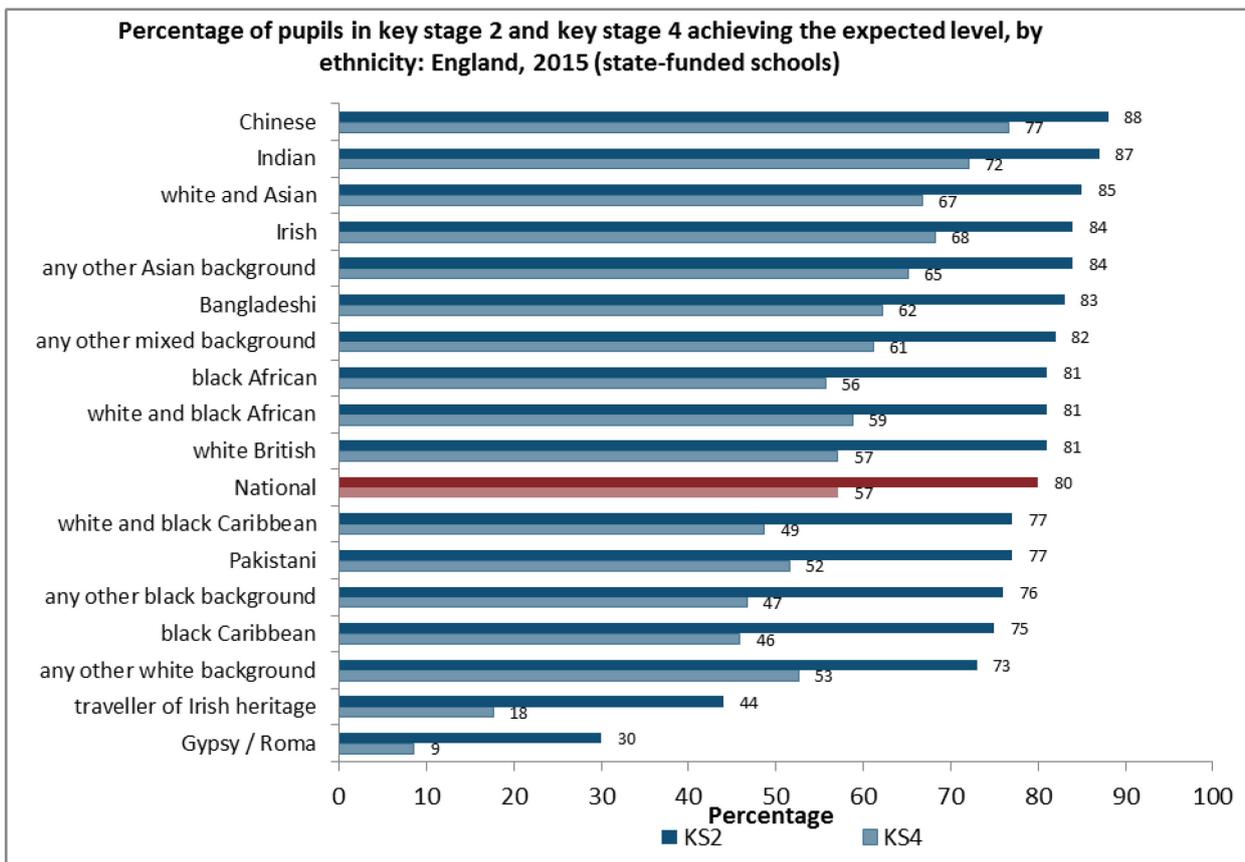
direct impact from our funding reform proposals.

## **Religion**

11. In the current funding system, funding for pupils attending schools designated with a religious character is calculated on the same basis as other local state-funded schools – using a locally-determined formula. We are proposing to move to a school-level funding formula, where the vast majority of each school’s budget will be determined using a single, national formula. Our proposal will affect all types of school equally. We are not aware of any evidence that the introduction of a national funding formula would impact disproportionately on pupils choosing to attend faith schools.

## **Race (including ethnicity)**

12. We know that attainment continues to vary between different ethnic groups across all ages – at key stage 2, Chinese pupils remain the highest achieving group (the percentage of pupils achieving level 4 or above in reading, writing and maths is 8 percentage points above the national average) while pupils from a Gypsy / Roma / traveller or Irish heritage background remain the lowest performing ethnic groups. Figure 1 shows, by ethnic group, the percentage of pupils achieving level 4 or above in reading, writing and maths at key stage 2, and the percentage of pupils at key stage 4 achieving 5+ A\*- C GCSEs (or equivalent) including English and maths GCSEs.



**Figure 1: Percentage of pupils in key stage 2 and key stage 4 achieving the expected standard in 2015, by ethnicity**

The chart shows that attainment continues to vary between different ethnic groups across all ages.

Source: Department for Education, '[National curriculum assessments at Key Stage 2: 2015 \(revised\)](#)', December 2015,

Department for Education, '[Revised GCSE and equivalent results in England: 2014 to 2015](#)', January 2016

13. Differential attainment by specific groups of pupils reflects a range of complex and interwoven factors, including socio-economic, cultural, linguistic, geographical and inter-generational aspects.

14. Rather than proposing to include a funding stream in the national funding formula that is linked to the broad characteristic of ethnicity, we are proposing to use a series of pupil characteristics that evidence suggests provide the strongest correlation to lower attainment, and will directly identify schools with pupils most likely to need additional support to reach their full potential. These factors, in turn, are correlated to ethnicity, and help to explain the lower attainment of some groups. The factors are explained in more detail in the schools national funding formula consultation document. For the schools formula, we are proposing to use three 'additional needs'<sup>4</sup> factors – deprivation (using a

<sup>4</sup> In the context of this equality analysis and in the consultation document 'additional needs' is the term given to one of the proposed building blocks of the national funding formula for schools.

combination of pupil- and area-level socio-economic deprivation data to reflect the 'double deprivation' experienced by pupils from disadvantaged backgrounds who live in a deprived areas), low prior attainment (based on pupils' attainment at the previous stage) and English as an additional language (based on census data about pupils' first language). For high needs, we target funding according to low attainment, disadvantage, and children's health and disability.

15. The additional needs factors we have proposed for the formulae will target additional resources to pupils from under-attaining ethnic groups – especially Gypsy / Roma and traveller of Irish heritage pupils, who are consistently amongst the lowest performers. Attainment data shows that pupils from under-attaining ethnic groups are disproportionately likely to be captured by each of these characteristics, compared to their peers from other ethnic groups<sup>5</sup>. Using a low prior attainment factor – as we are proposing to do in both the schools and high needs formulae – will enable the funding system to target funding to every pupil who did not reach the expected standard, rather than only those from particular groups.

16. The decision about whether to include an EAL factor in the school funding formula is currently a matter for local discretion. By including EAL in the national funding formula we will consistently target funding to schools with pupils who have recently entered the state sector and are likely to be facing an additional language barrier.

## Disability

17. Building on the foundation of the Children and Families Act 2014, which included the creation of a system that covers children from their birth to when they reach the age of 25, this consultation sets out proposals to improve the funding system that supports provision for children and young people with special educational needs and disability (primarily – but not solely – through the high needs block of the dedicated schools grant).

18. Local authorities have an important dual role in the system. They are responsible for assessing individuals' special educational needs and commissioning provision to meet those needs (set out in the Children and Families Act 2014). They are also responsible for making best use of the resources in the high needs budget. This is in line with the government policy of delegating decision-making to the lowest possible level, whereby local authorities and individual institutions are responsible for determining how best to meet special educational needs, and using their resources appropriately.

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<sup>5</sup> Department for Education, ['National curriculum assessments at Key Stage 2: 2015 \(revised\)'](#), December 2015

## High needs funding reform proposals

19. We are proposing a carefully phased approach to high needs funding reform, moving over time towards a formulaic distribution of funding for high needs provision from central to local government. We believe that local authorities should continue to manage the allocation of high needs funding locally, working in partnership with providers, agencies and parents to understand individuals' needs. We are also putting forward proposals to better equip mainstream schools, academies and colleges to meet the needs of their pupils with special educational needs, disabilities, behavioural problems and medical needs.

20. The proposals set out in this consultation have been informed by research carried out by Isos Partnership into how the SEN funding system might be improved<sup>6</sup>. Isos looked closely at the current distribution of high needs funding between local authorities and concluded that it does not correlate well with various measures of need. The Isos report demonstrated that children and young people with a similar description of needs and circumstances would be assessed differently and would attract very different levels of support depending on the local authority area in which they lived.

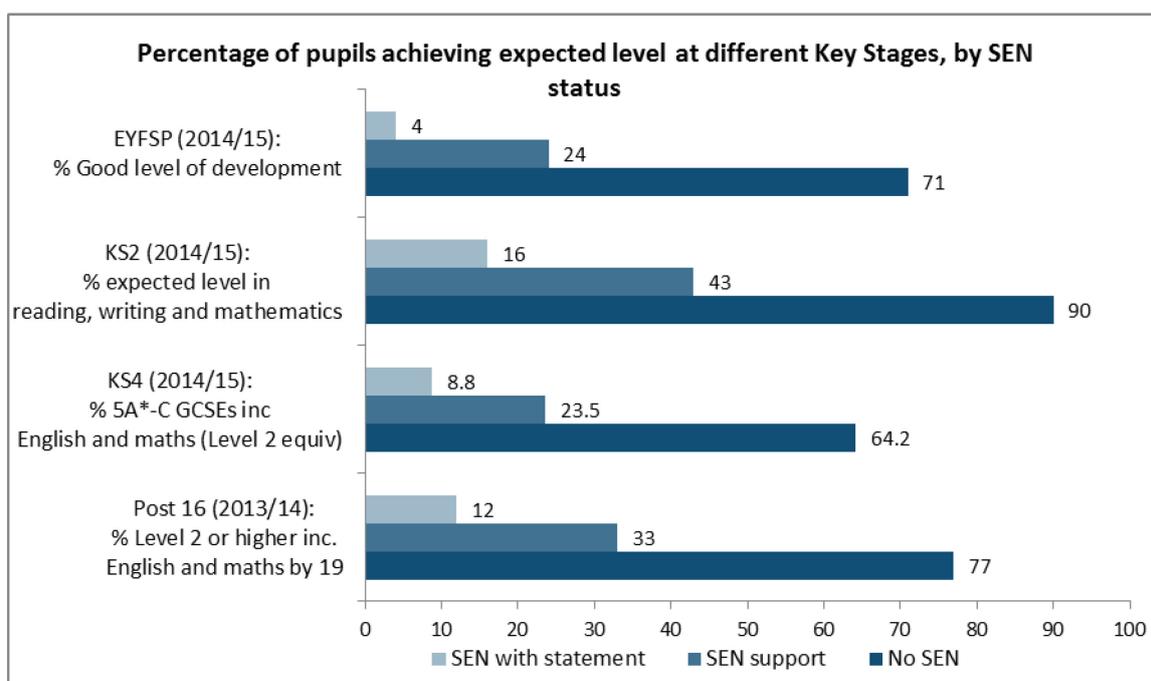
21. Our view is that the current high needs funding system is unfair to children and young people with high needs because it directs the most money to the local authorities with the historically high spending, rather than the highest needs. We are therefore proposing to allocate more funding on a formulaic basis and to use proxy indicators to identify that need as follows:

- a. **low attainment:** there is a strong correlation between attainment and SEN. 39% of pupils with SEN achieved the expected level in reading, writing and mathematics at key stage 2 in 2014/15 compared to 90% of those with no SEN. At key stage 4, the attainment gap at the expected standard was 44 percentage points in 2014/15. Figure 2 shows the gap in attainment between pupils with SEN and a statement, SEN support, and no SEN<sup>7</sup>

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<sup>6</sup> Department for Education, ['Research on funding for young people with special educational needs'](#), July 2015

<sup>7</sup> For 2014/15, following SEND reforms, SEN pupils are categorised as 'SEN with a statement or Education, health and care (EHC) plan' and 'SEN support'. SEN support replaces school action and school action plus but some pupils remain with these provision types in first year of transition



**Figure 2: Percentage of pupils achieving expected level/standard at different stages, by SEN status**

**This chart shows a correlation between low attainment and SEN.**

Source: Department for Education, [‘National curriculum assessments at key stage 2: 2015 \(revised\)’](#), December 2015  
[‘Revised GCSE and equivalent results in England: 2014 to 2015’](#), January 2016  
[‘Early Years Foundation Stage Profile results: 2014 to 2015’](#), November 2015  
[‘Level 2 and 3 attainment by young people aged 19 in 2014’](#), March 2015

- b. **children’s health and disability:** we are proposing to introduce two new funding factors based on publicly-available data sources: area-level data on the number of children in poor health (which comes from the population census) and area-level data on children and young people in receipt of disability living allowance (which is published by the Department for Work and Pensions). In their report, Isos recommended the inclusion of these data sources as they correlate well with the health and disability aspects of SEND
- c. **socio-economic disadvantage:** we are proposing to include two indicators of deprivation (pupil-level and area-level deprivation data, similarly to the schools national funding formula) in the high needs funding formula. There is a significant overlap between pupils eligible for free school meals and SEN – pupils with SEN are twice as likely to be eligible (and claiming) for free school meals as other pupils<sup>8</sup>
- d. **child population:** we are also proposing to use population data to allocate high needs funding to reflect that there will be a minimum number of children and young people with high-level SEND in every local authority area. The percentage of all pupils with a statement of SEN or EHC plan varies between 0.3% and 4.2%

<sup>8</sup> 32% of pupils with statements of SEN or education, health and care plans are eligible for FSM, compared to 15% of the overall population.

in different local authorities but, apart from in two London authorities, that percentage is never less than 1%<sup>9</sup>.

22. We believe that the introduction of a formula for allocating high needs funding to local authorities, and our proposals aimed at improving clarity about provision at a local level, will be a major step forward in our programme of SEND reforms. Our initial conclusion is therefore that, by better matching the resources available with an objective and up-to-date estimate of relative need across the country, the high needs funding reform proposals outlined in this consultation package will have a positive effect on the protected characteristic of disability.

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<sup>9</sup> Department for Education, [‘Special educational needs in England: January 2015’](#), July 2015

## Schools funding reform proposals

23. Schools are required to identify and address the special educational needs of the pupils they support and to use their best endeavours to make sure that a child or young person who has SEN gets the support they need. Mainstream schools are expected to meet the first £6,000 of additional costs for each child. We are not proposing to change these arrangements.

24. In the current school funding system, local authorities use a range of formula factors to set 'notional SEN' budgets, through which they indicate the proportion of a mainstream school's budget that is notionally allocated for SEN. We agree with the Isos conclusion that how local authorities currently calculate their schools' notional SEN budget is varied and not particularly meaningful, and that we should look to remove or replace this. We think that some way of identifying how much of a school's budget might be appropriate to spend on children with SEN could be helpful to schools as they decide on their spending priorities, but it would be better to offer schools guidance and the tools to do this for themselves, rather than specifying that the local authority has to calculate a notional SEN budget for each school. We intend to do more work with the sector to determine how best to proceed.

25. We have also considered the potential impact of the factors we are proposing to include and exclude from the national funding formula for schools on young people and children with disabilities. Our proposals for a schools formula take as their starting point the factors that are currently allowed in local school funding formulae. As noted above, we are proposing to use three 'additional needs' factors – deprivation, low prior attainment and English as an additional language – in order to increase funding to schools likely to have pupils more likely to need additional support, including those with SEN in mainstream provision.

26. There is a particularly high overlap between children who are looked-after or have left care and those who have a statement of SEN or an education, health and care plan<sup>10</sup>. Although local authorities can currently choose to use a looked-after children factor in their local formula, we are proposing not to include it as a factor in the national funding formula for schools. This is because we are proposing instead to increase targeted funding to support both looked-after and post looked-after children through the pupil premium plus. Our view is that the greater focus this will place on the additional funding allocated to support looked-after and post looked-after children will help to maximise its impact.

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<sup>10</sup> In 2014, the proportion of school-aged looked after children with a statement of SEN was 29%, compared to 3% of all children.

## Next steps

27. This document sets out our assessment of the impact of our proposals to reform schools and high needs funding, set out in the accompanying consultation documents. It forms part of the first stage of our consultation on proposals for a national funding formula, where we are setting out the principles of funding reform, the structural changes we propose to the system, and the various factors we propose to include in the national funding formulae for schools and high needs. We would welcome further views and evidence to inform our response to this consultation, when we will finalise our proposals for the structure of the reformed funding system, including the factors that will be included in each formula. We will review our assessment in the light of responses received to the first stage of consultation and publish any updates to it through the consultation process.

28. The next stage of consultation later this year will then consider the design of the national funding formulae and exemplify the impact on individual schools and areas. We will continue to review the impact of our proposals in line with the Public Sector Equality Duty throughout the consultation process.

Are there any other factors not included in the consultation document and not included in the assessment above that we should take into account? Has the analysis we have conducted so far captured all relevant statistics or is there further analysis we should undertake?



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