



Strategic Services for Children and Young People

**FUNDING FOR CHILDREN AND YOUNG
PEOPLE WITH HIGH NEEDS IN
NOTTINGHAMSHIRE**

An external review

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11th June 2018

EXTERNAL REVIEW OF FUNDING FOR CHILDREN AND YOUNG PEOPLE WITH HIGH NEEDS IN NOTTINGHAMSHIRE

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1. BACKGROUND

1.1 Nottinghamshire has a strong reputation nationally for its approach to the education and support of children and young people with special educational needs and disabilities. Key features include:

- (i) A relatively high level of delegation/devolution of funding to mainstream schools/ groups of schools to support the development of capacity to meet needs locally and in inclusive settings, with many examples of innovative and good quality practice
- (ii) A mainstream resourcing approach that does not rely on statutory procedures to identify pupils with particular need for additional support, and which supports local collective working (families of schools)
- (iii) A system of specialist provision that enables most pupils with significant needs to be educated locally, without needing to be placed at a distance from home
- (iv) High quality support services that target their work on children and young people that present the biggest educational challenges, while also helping schools and settings develop the capacity to meet a broad range of needs themselves

1.2 Nottinghamshire has maintained an ongoing capacity for strategic planning and review and has been able over time to anticipate and respond to changing needs and demands. Budgets have been well managed with only marginal overspends. However, a number of factors are currently contributing to increased financial pressures. A significant overspend is predicted this year which exceeds the additional funding that the DFE is proposing to allocate to the Authority for HN in 2018/19 (£2.7m¹). A number of steps have been taken to address this in the short term (transfer of funding from Schools Block; reductions in local school partnership budgets (Additional Family Needs and funding for Alternative Provision)). However, ongoing increases in HN expenditure are not financially sustainable.

¹ This reflects a growth in overall population (2-18) and some adjustment for Authorities that have been funded below the levels indicated by the new national HN funding formula.

- 1.3** Initial analysis by officers of the growth in spend suggests the following as being particularly relevant:
- (i) Some increase in the numbers of children and young people with complex and significant needs
 - (ii) Increased demands on levels of attainment in mainstream schools which are affecting their capacity to be inclusive
 - (iii) Increased pressure for statutory assessment following the introduction of the national SEND reforms
 - (iv) Increased parental expectations that pupils will stay on in specialist educational provision post 16 and beyond
 - (v) Organisational changes and staff turnover in the Authority's SEN casework team that may have had an impact on decision-making (consistency and thresholds)
- 1.4** The biggest increase in spend is on placements in independent/non-maintained special schools. However, this is linked to a broader increase in provision demands, with some pupils being placed in this kind of provision because local special schools are full. There have been associated increases in transport costs.
- 1.5** The Authority has decided to commission an external review of its HN spend to examine some of these factors in more detail. It is also expected to provide some comparisons of spend/pressures against other similar Authorities (Derbyshire, Lancashire, Lincolnshire, Staffordshire etc) and across different areas of the county. Officers are keen to engage with schools and other stakeholders to help clarify the issues and identify a viable way forward.
- 1.6** The review has been jointly commissioned with Schools Forum, with a view to a report being considered at its meeting in June 2018, before broader dissemination of findings.

2. METHODOLOGY

- 2.1** The review process was agreed with key officers at the outset. It involved the following activities:
- *Interviews with managers/senior officers and benchmarking:*
 - *Detailed analysis of key statistical and financial data*
 - *Consideration of relevant documents*
 - *Meetings with groups of stakeholders:*
 - *Analysis and write-up*

- 2.2 Full lists of interviews and documents consulted are provided in Appendices 1 and 2. Interviewees included LA officers from the relevant departments (managers and service practitioners), early years and post 16 providers, and from the independent sector, parents/carers and schools. A series of area meetings with school leaders (mainstream and special) took place late on in the process in order to check emerging perspectives and engage people in thinking about ways forward.
- 2.3 Benchmarking was based on data from the DFE's website, including the latest version of the HN benchmarking tool. This is at an early stage of development and is based on Local Authority S251 returns, which are not always completed consistently. However, some broad conclusions could be drawn from looking at Nottinghamshire's statistical comparator group.
- 2.4 Nottinghamshire SEN data was drawn from a range of sources: from the Authority's annual SEN2 returns (for the last 3 years), from other summary databases and from analyses already undertaken by officers.

3. NOTTINGHAMSHIRE'S HIGH NEEDS SPEND

Budget and overall expenditure trends

- 3.1 Funding for educational provision and services for children and young people with high needs is allocated to Local Authority areas from central government as part of the Dedicated Schools Grant (DSG). It sits alongside core funding for mainstream schools (Schools Block) and for early years providers (Early Years Block).
- 3.2 Levels of funding allocated to each local area are historic and date back to when DSG was first created. The current Government has made a commitment to 'fairer funding' with the expectation that mainstream schools and early years providers will be funded through a national formula. Historic differences in High Needs Block funding will also be addressed.
- 3.3 In practice, the Government has been reluctant to make substantial changes to HNB allocations because of the risk of political fallout. Fifty percent of the new national HN funding formula is based on a 'historic' factor and the use of a 'funding floor' means that no Authority area loses. Although some additional money has been made available to lower funded LAs (such as Nottinghamshire), increases have been capped at 3% per year, with no firm commitment to any further increases after 2019/20.

- 3.4** Nottinghamshire's allocation for HN in the 2018/19 financial year is £62.4m². This will increase to £64.19m in 2019/20. Expenditure was significantly over budget in 2017/18 (£63.64m against an initial HNB allocation of £59.82m), which was offset by around £1m from Local Authority reserves and other sources)
- 3.5** It has been possible for Local Authorities within the DSG to make adjustments between the funding blocks to address overspends in one or other area. Some Authorities have also drawn on DSG reserves. These options are now more restricted. Reserves have been spent in previous years and are no longer available. And there are limits to the amount of money that can be taken from the Schools/Early Years Blocks (with these also under pressure).
- 3.6** Schools Forum have reluctantly responded to HN budget pressures for 2018/19 through agreeing to a 0.5% budget transfer from Schools Block (allowable under the new national funding regulations) and by targeted reductions to specific HN budget areas. But this is not a long-term solution and more fundamental changes will be necessary to help manage the current level of spend, which is unsustainable.

Comparison of HNB against statistical comparator LAs (and expenditure trends)

- 3.7** There is currently national concern about HNB pressures, with organisations such as the LGA (Local Government Association) and ADCS (Association of Directors of Children's Services) arguing that insufficient account has been taken of the rise in numbers of children and young people with complex needs and in the expectations of parents/carers (linked to the SEND reforms), or the impact of financial (and other) pressures on mainstream schools, which are reducing their capacity to provide.
- 3.8** Concerns are being raised by many Authorities, whatever their historic HN funding levels, and are to some extent relative to local expectations. However, there is some evidence that pressures and high spends in some areas are less about maintaining high quality services and provision and more due to a lack of proper strategic management at local level.
- 3.9** Table 1 (attached) shows Nottinghamshire's HNB allocations for 2018/19 and 2019/20 compared to its statistical neighbour LAs. It receives a substantially lower amount per overall pupil populations than the average figure, with recent Government increases having only a moderate impact³. It is recommended that the Authority continues to make representations to the DFE concerning this shortfall, independent of any broader national expression of budget sufficiency concerns.

² Before deductions for places in academy, free school and non-maintained specialist provision, which are funded directly by the ESFA (Education and Schools Funding Agency).

³ Lower HNB allocations can sometimes be associated with a higher level of financial delegation. However, mainstream school funding in Nottinghamshire is around average for the statistical comparator group.

- 3.10** Nottinghamshire has had a longstanding tradition of strategic planning with regard to SEND, actively engaging with partners to achieve a more proactive and managed approach. It should not be penalised financially for this.

Breakdown of current spend and areas of particular pressure

- 3.11** Table 2 (attached) provides a breakdown of spend on different types of provision and services, with trends over time. The biggest increases in spend are on:

a) Provision in independent/non-maintained special schools (including post 16)

Spend has risen from **£3.84m** to nearly **£10m** between 2014/15 and 2017/18. The increase is due to a mixture of an increase in numbers of new placements, a higher level of ‘staying on’ post 16 and increased costs per place.

b) Allocations of funding for pupils in mainstream with High Level Needs (HLN)

Spend has risen from **£4.2m** in 2015/16 to over **£5m** in 2017/18. This is mainly due to an increase in number of allocations (from 478 to 589 pupils).

c) Additional provision for students with HN in FE colleges

Spend has risen from **£3.44m** in 2014/15 to **£5.37m** in 2017/18. This is mainly down to an increase in number of students identified with HN and some increase in levels of staying on.

d) Placements in Nottinghamshire state-maintained special schools

Spend has risen from **£19.94m** in 2014/15 to **£21.45m** in 2017/18. This is due to a mixture of an increase in number of new placements, a higher level of ‘staying on’ and marginal increases in average placement cost.

- 3.12** Spend on most other categories or provision and services have remained relatively stable, with fixed budgets for family SEND funding (AFN/FNF) and behaviour partnerships. Reductions in support service funding (SFSS) are reported to have helped offset other HN growth pressures in the past.

Spend comparisons against a sample of other LAs

- 3.13** Comparisons were made with Nottinghamshire’s nearest statistical neighbours (Derbyshire, Staffordshire and Lancashire). This produced a mixed picture. All three Authorities receive a higher HNB allocation than Nottinghamshire (see Table 1 above). Derbyshire has the most similar spend profile, with an equivalent spend on

placements in state-maintained special schools but a slightly higher spend on PRUs⁴. It appears to spend more on top-ups for pupils in mainstream schools (particularly in secondary)⁵. Interestingly, it spends significantly less on independent/non-maintained special school placements and on independent specialist colleges.

- 3.14** Staffordshire and Lancashire also have a lower spend on placements in the independent/non-maintained sector but spend more on state-maintained specialist provision.
- 3.15** Both these Authorities are facing significant overspends on HN this year. Staffordshire's forecast overspend was £4.96m for 2017/18 with an estimate of £4m to £7m for 2018/19. The main areas of increase are on placements in state-maintained and independent/non-maintained special schools and on top-ups for pupils in mainstream. Lancashire's forecast overspend for 2017/18 was higher (£8.5m) with an estimate of £10m in 2018/19. Both Authorities received some growth in HNB as a result of the National Funding Formula but this was substantially less than their forecast spend increases⁶.
- 3.16** Derbyshire's growth in spend has been more modest, with a forecast overspend of less than £1m for 2017/18. Given their spend profile, this suggests that successful management of the independent/non-maintained special school issue may be a more important factor in controlling spend than the number of state-maintained special school places that are locally available.

Area breakdown

- 3.17** Table 3 (attached) provides an analysis of HN spend across the seven Local Authority Districts⁷. The demographic formula used by Government for calculating Local Area HNB allocations (minus history) has been applied to identify the expected share of Nottinghamshire's overall spend if budget was disaggregated to the District level. The analysis is limited to the main areas of HN spend (specialist provision and additional funding in mainstream schools) and does not include HN funding for early years or students in FE colleges.
- 3.18** The analysis shows different levels of spend on key areas of provision even when size and demography are taken into account. Ashfield 'spends' the most on independent/non-maintained special school provision (21.8% of the overall total) and higher than expected on state-funded special schools. Rushcliffe 'spends' lower than expected on

⁴ Funding for this type of provision in Nottinghamshire is devolved to partnerships of schools and is recorded elsewhere in the S251 budget statement.

⁵ However, it is not clear if the Nottinghamshire S251 top up heading also includes funding devolved to families of schools (AFN/FNF)

⁶ Overspend figures taken from relevant Authority's Schools Forum reports (available online)

⁷ Based on children that live in those areas accessing HN provision and services.

specialist provision but more on additional funding for pupils in mainstream schools. Mansfield 'spends' lower than its expected share on most areas of high cost provision.

4. ANALYSIS OF REASONS FOR OVERSPEND

Increase in levels of need?

- 4.1** There was a general view from early years providers and schools (and from some officers and support services) that there has been an increase in the number of children and young people with complex needs, and the levels of their difficulties. More spend on provision and services is needed to reflect this, with overspends being a consequence of inadequate growth in central government funding.
- 4.2** Some schools and services also pointed to the impact of other factors on mainstream capacity to meet needs, some of which they would have been able to address more easily in the past. These included reductions in school staffing (particularly in the area of inclusion support), less curriculum flexibility and increased expectations for pupil attainment. There had also been reductions in the levels of external support, with vacancies frozen in the SFSS and more limited EPS capacity for intervention (resulting from increased statutory assessment demands). Targeted support for child and family issues was also less easily available.
- 4.3** The main challenges schools report they are facing relate to children with autistic spectrum disorders (ASD) – usually with accompanying social/behavioural issues, and/or those with social, emotional and mental health needs. Some schools also reported greater difficulties in meeting the needs of pupils with physical/medical difficulties along with more limited support from Health (arising from higher eligibility thresholds for continuing care).

Evidence:

- 4.4** There is some evidence for this trend from the rise in numbers of pupils with Education, Health and Care Plans (EHCPs) and the increase in number of new statutory assessment requests. There has also been growth in numbers of children being placed in specialist provision. Some have argued that the rise in placements in the independent/non-maintained special school sector reflects an insufficient number of places in local state-funded special schools. In response, the Local Authority is currently seeking to increase the number of places available. These two issues are addressed in the following sections.

Rise in number of statements/EHCPs:

4.5 Table 4 (below) shows the rise in number of statements/EHCPs over the period from 2015 – 2017. Total figures are given to take account of conversions during this period. The overall increase has been significant (36%). Interestingly a large proportion of the growth has been for pupils aged 16 and over (from 419 to 914⁸). Numbers have grown in all forms of post 16 provision, including state-funded and independent/non-maintained mainstream and special schools, and Education Other Than At Schools (EOTAS), as well as mainstream FE and specialist colleges

Table 4: Rise in number of children and young people with statements/EHCPs by type of provision (source: LA SEN2 returns)

	2015	2016	2017
Total (combined)	1844	2104	2499
<i>16+</i>	<i>419</i>	<i>651</i>	<i>914</i>
EYs (PVI)	4	15	14
State mainstream	468	584	617
Private mainstream	12	17	40
State special	985	957	1081
I/NM special	172	167	199 ⁹
Alternative provision	2	3	3
Mainstream units	0	0	1
Mainstream colleges	78	141	179
Specialist colleges	64	117	162
EOTAS	39	68	141
Elective home education	14	17	20
Awaiting provision	0	16	14
Other	5	1	11

4.6 Table 5 (below) gives a breakdown of pupils by category of need. The highest proportion are recorded as having autistic spectrum disorders (ASD) or social/communication difficulties. Numbers have grown significantly over the two year period (from 700 to nearly 1000). The next highest category is social, emotional and mental health difficulties (SEMH). Numbers in this group have remained relatively stable overall (despite school reports of increasing levels of difficulty). However, it is likely that this reflects an increasing tendency for pupils with social/behavioural difficulties to be identified as ASD.

⁸ The rise for 0-15 is more modest (1425 to 1585)

⁹ Significant further growth since this point

- 4.7** There are significant year by year changes in the severe and profound learning disabilities and physical/medical needs categories, which suggest some inconsistencies in recording. If these groups are added together, there has been a 17% increase in numbers of pupils with statements/EHCPs who have significant physical/learning difficulties (440 to 513).
- 4.8** Interestingly, there have also been increases in numbers of pupils with statements/EHCPs who have more modest needs. Nearly 10% of the 2017 pupils (225) were recorded as having moderate learning difficulties (MLD) – an increase of 26%, with another 30 having specific learning difficulties (dyslexia etc). These are the kinds of needs that would now generally be expected to be addressed by ordinary mainstream school provision.

Table 5: Rise in number of children and young people with statements/EHCPs by primary need (source: LA SEN2 returns)

	2015	2016	2017
Total (combined)	1844	2104	2499
ASD/SCD	700	782	993
SEMH/BESD	343	299	329
Severe learning disabilities	66	222	214
Profound/M learning disabilities	16	77	83
Physical/medical needs	358	176	216
Hearing impairment	39	39	42
Visual impairment	18	23	26
Multi-sensory impairment	8	6	10
Moderate learning difficulties	179	212	225
Specific learning difficulties	8	40	30
Speech, language, communication	109	85	110
Other ¹⁰	0	113	195

- 4.9** The data provide some evidence of an increase in numbers of pupils with complex needs. However, the post 16 figures suggest that most of this change can be attributed to increasing numbers in education at this phase. This is partly due to the extension of the statutory process into the mainstream college sector but also an increasing expectation from parents/carers and others that pupils with high needs can/should ‘stay on’ in education for longer. This issue is addressed in paras 4.30/4.31 below.
- 4.10** The rise in numbers of pupils with statements/EHCPs in the ASD category raises questions about whether all of these have complex/significant needs or whether they are more likely to have a statement/EHCP agreed if they have this label.

¹⁰ The significant numbers of pupils without a category in 2016 and 2017 means that these trends need to be interpreted with caution.

- 4.11** It is unclear how far the continuing numbers of pupils with statements/EHCPs with MLD/SpLD reflect a greater degree of complexity within this range, or variability in school practice/expectations and levels of parent/school demand.

Increasing numbers of EHCP requests

- 4.12** An analysis of the number of new EHCP requests indicates that the picture may not be simply about a ‘growth in need’. Total new requests rose from 392 in 2013/14 to 511 in 2016/17 (see Table 6 below). Data from the SEN2 returns (for a different time period) indicate that numbers reached a peak in 2016 with some reduction since then. The percentage of these requests that did not lead to a plan has also risen, meaning that successful requests have stabilised at around 270 per year.

Table 6: Growth in numbers of statutory assessment requests from 2013/14 to 2015/16, with outcomes (EHCP Yes/No)

	Total requests	% No	Yes (number)
2013/14	392	33.7	260
2014/15	469	39.2	285
2015/16	500	37.2	314
2016/17	511	52.8	241

- 4.13** There is evidence that the increasing percentage of assessments not leading to a plan reflects a more robust LA decision-making approach. However, it is concerning that there is such a large gap between requests that are seen as appropriate and referrer expectations. Table 7 (below) shows the percentage of requests that were submitted by parents/carers, schools/settings and other sources. A significant majority of requests come from parents/carers.

Table 7: Sources of requests/referrals for statutory assessment from 2015 to 2017 (% of total requests for the year)

	2015	2016	2017
Parents/carers	65	71	73
Schools/settings	23	15	20
Young people	1	2	0
Social services	4	4	3
Other (eg Health)	7	8	4

- 4.14** Discussions with schools and support services suggested that a significant proportion of parental requests are submitted without the support of the school. There are a number of different influences: messages from social media and other parents; from SEND websites and voluntary organisations; and the prevailing focus of the new national SEND reforms. Other professionals (eg paediatricians and social workers)

also play a significant role in suggesting to parents/carers that this may be an appropriate course of action.

- 4.15** Processing such requests takes a considerable amount of professional and administrative effort (as well as creating unnecessary stress and disappointment for parents/carers). While inappropriate requests can be refused at the outset, it is more common for them to progress to statutory assessment and a decision to be made after that process has been completed¹¹. It is important that all local professionals have a better understanding of the purpose of statutory assessment in Nottinghamshire and the thresholds at which assessments are agreed.
- 4.16** Table 4 (above) indicates that there has been an increase in numbers of statements/EHCPs in mainstream schools, from 468 in 2016 to 617 in 2017. The number of new EHCPs where mainstream is the outcome has increased by 50% over this period. This is difficult to explain as, in Nottinghamshire, statutory assessment is not required to access additional resources. Interviews with family SENCOs confirmed that EHCPs did not mean that children were given any greater priority in funding decisions.
- 4.17** Parents/carers suggested that the main reason for the increase was reduced confidence in the ‘mainstream offer’. They felt that statements/EHCPs could give them more power to influence school practice and hold them to account. There was also greater uncertainty at phase transfer (primary-secondary in particular). Parents/carers (and sometimes schools) wanted to ensure that children’s individual needs were properly recognised in their new setting.
- 4.18** Some of those on Parent Carers Forum who had experienced the Nottinghamshire system over a number of years felt that they were less able to rely on appropriate provision being ‘ordinarily available’.
- 4.19** While some of these concerns are understandable, the rise in numbers of statutory assessment requests and EHCPs in mainstream has a number of negative effects. Firstly, it brings additional administrative burdens on schools and services without necessarily enhancing capacity to meet pupil needs. Secondly, any benefits that do derive from the process could/should be possible to achieve in a simpler way, through greater flexibility and better communication between key partners (parents and schools). Thirdly, the move to ‘statutory entitlement’ can be a pathway to a more adversarial/less trusting relationship, with an emphasis on securing fixed provision (eg ‘full-time 1:1’) rather than steps towards greater independence. Finally, it can open the way to consideration of other placement options which may not be appropriate and can carry a higher financial cost.

¹¹ SEN and disability tribunals tend to take this approach if parents appeal against the Local Authority decision

Rise in number of INM pupils

- 4.20** There has been a continuing rise in numbers of pupils attending independent/non-maintained (I/NM) special schools. The main reasons put forward for this are:
- (i) Insufficient numbers of places available in local state-funded special schools for the volume of pupils who need this kind of provision
 - (ii) Gaps in provision, with some pupils being ‘too special for special’ (having needs that are too complex for mainstream, but levels of learning difficulty that are not significant enough to be considered for special). Mainstream schools are finding it particularly difficult to secure suitable local provision for more able pupils with ASD where there are significant social/behavioural issues and for those with significant emotional/mental health needs
 - (iii) A stronger weighting given to parental preference following the introduction of the national SEND reforms
- 4.21** While both of these factors may play a part, the data shows that most of the recent increase in numbers in I/NM schools can be attributed to more pupils staying on post 16, and for longer periods (see Table 8 below). Post 16 pupils make up nearly half of the overall number (a 260% increase since 2015).

Table 8: Age profile of pupils attending independent/non-maintained special schools (2017): (source SEN2 return data Jan 2018)

Age range	Independent	Non-maintained	Total
0-7	0	0	0
8-10	8	11	19
11-15	49	44	93
16+	44	43	87
Total	101	98	199

- 4.22** There is evidence that, once pupils are placed in the independent/non-maintained sector, they tend to stay. A number of providers are now looking to extend their offer to 19 and beyond. This offer is attractive to many parents/carers who are unclear about local post 16 pathways or see I/NM as a more positive option.
- 4.23** An analysis of I/NM data by category of need shows that the majority of pupils placed in this type of provision have ASD (see Table 9 below). The next highest category is social, emotional and mental health needs (SEMH) followed by hearing impairment. A relatively high number of pupils are recorded in the ‘Other’ category, which suggests they may have a range of difficulties.
- 4.24** It was not possible to ascertain what type of provision typically preceded placement in I/NM schools. However, interviews suggested that most pupils with ASD were placed

from mainstream direct (or from a period out of school or on EOTAS) rather than from other state-maintained special schools. Some of the pupils (SEMH and ASD) were placed in REAL Education, a local independent provider that offers both special school and Alternative Provision places.

Table 9: Needs profile of pupils attending independent/non-maintained special schools (2017): (source SEN2 return data Jan 2018)

Primary need	Independent	Non-maintained	Total
ASD	33	58	91
SEMH	38	5	43
Deaf/HI	0	15	15
SLCN¹²	3	4	7
Phys/Med	0	3	3
Severe LD	0	1	1
Moderate LD	0	1	1
Specific LD	0	2	2
Visual	0	1	1
Other	25	8	33
No category	0	2	2
Total	<i>101</i>	98	<i>199</i>

- 4.25** A mixture of providers are used, which are generally within a reasonable travelling distance. Placements are mostly day but there are some residential that are particularly high cost.
- 4.26** The needs profile shown above provides some support for the view that I/NM placements are filling gaps in the pattern of provision available in local state-maintained schools. Nottinghamshire has no dedicated SEMH special school of its own and its mainstream resource bases for pupils with significant sensory impairment closed some years ago. There was some evidence to suggest that ASD placements tend to be for pupils with average academic ability.
- 4.27** On the other hand, some officers reported that I/NM placements can be made because there are no available places in local specialist provision (even though pupil needs could be met). Discussions with special school Heads indicated that they were now being asked to admit a broader range of needs, including some pupils who, in the past, might have been successfully educated in mainstream settings.
- 4.28** The pattern of special school provision in Nottinghamshire varies between different areas of the county. Some Districts have schools for pupils with significant learning disabilities (eg Bassetlaw/St Giles, Newark/Orchard, Rushcliffe/Ashlea). Others have different options with schools that take a broader range of needs (eg Beech Academy

¹² Speech, language and communication needs

in Mansfield; Derrymount in Gedling; Foxwood in Broxtowe). However, Table 2 shows that broader patterns of provision are not necessarily associated with a lower number of placements in the I/NM special school sector.

- 4.29** Nottinghamshire has a very small number of mainstream resource bases compared to some other areas of the country. A number of Authorities have increased this kind of provision in order to accommodate more able pupils with ASD (and reduce reliance on I/NM placements). This kind of development has not always been successful, with the tendency for provision to become a magnet for pupils with more modest needs which could have been met in their own local mainstream setting.

Other reasons influencing the overspend:

Staying on

- 4.30** Numbers of students with EHCPs at post 16 have risen across the board, not just in I/NM schools but also FE colleges (mainstream and specialist), mainstream 6th forms and state-maintained special schools (increase from 207 in 2015 to 286 last year). Placements in specialist colleges (mainly Portland) have risen from 64 to 162 in the equivalent period).
- 4.31** The budget for FE college provision was previously held centrally by the ESFA but was disaggregated to Local Authorities under the new HN funding arrangements at historic levels. Any subsequent increase in spend is having to be met within the overall HNB allocation

Changes to the Early Years offer

- 4.32** The Local Authority has provided additional funding for children in PVI (private, voluntary and independent) settings from its DCACH budget. This is coming under increasing strain with the extension of the Early Years offer to disadvantaged 2 year olds and full-time places. There are plans to develop an Early Years Inclusion Fund (in line with Government recommendations), with a topslice from core provider budgets agreed this year. Any further increases are likely to be an additional draw on the HNB.

Organisational issues

- 4.33** Nottinghamshire has had a long tradition of strategic management of policy and provision for SEND and behaviour. There have been close connections between strategy and operational decisions. In 2016, the Authority took a high level decision to go for a more 'integrated' approach, bringing together the SEN casework team and social care (disability) personalization functions. There was also a desire to streamline services and costs to help meet the required savings in LA core budgets.

4.34 While this restructuring had some potential benefits, it created the following issues:

- i) Greater separation between the new Integrated Children's Disability Service and other related functions (Educational Psychology and Schools and Families Support Service)
- ii) A tendency to see SEND as a 'within-child' issue, with less account taken of school influences/expectations on levels of need
- iii) A more reactive 'case by case' decision-making process, with less clear strategic and policy reference points
- iv) A less robust approach to the use of management information, particularly with regard to placement and financial trends

4.35 In addition, the SEND reforms ushered in a 'new broom', with a tendency to criticise past practice as being insufficiently 'child and family-centred', and a need to be more responsive to parental concerns and preferences. Longstanding Nottinghamshire traditions, such as the more limited use of statutory assessment to meet children's needs, started to be questioned at local level. Concerns were reinforced by examples of children and parents who had had bad experiences, who needed stronger safeguards and more substantial provision than they were currently receiving.

4.36 Changes to pay and conditions within the new SEND casework service led to turnover and a loss of experienced staff with a professional background in education. Caseworkers found it more difficult to judge what mainstream schools might reasonably be expected to provide and to pitch their level of challenge correctly. Internal reorganisation also led to a loss of local connections¹³, which affected the quality of professional communication needed for complex and challenging cases.

4.37 Changes in decision-making practice also led to uncertainty among mainstream SENCOs and support service professionals about the circumstances and thresholds for agreeing statutory assessments and statements/EHCPs. A number of those interviewed felt these were inconsistent and made them less able to predict outcomes. They had therefore become less inclined to challenge requests that would have historically been regarded as inappropriate¹⁴.

4.38 At a strategic level, there was also a preoccupation with the implementation of the national reforms and ensuring that there was compliance with new planning requirements and administrative processes. There was only limited reference to how Nottinghamshire would ensure that High Needs could be met within the available budget with increasing pressures and demands.

¹³ Personnel had previously been linked to local areas/families of schools.

¹⁴ There have been some improvements in decision-making practice, with more robust Panel processes and EPS support/mentoring to the ICDS team. Decisions about higher cost (I/NM) placements are now having to be validated at a senior officer level.

Increasing claims from mainstream schools for higher level funding

- 4.39** There have been an increasing number of pupils put forward for HLN funding, with 478 being allocated this resource in 2015/16 rising to 589 in 2017/18. This has been accompanied by an increasing spend (+£900k over a 2 year period). When the current version of Nottinghamshire's mainstream funding system was introduced, it was expected that the significant majority of pupils would be funded at family/school level, with a handful being given additional support through a county panel.
- 4.40** Numbers of pupils with HLN funding vary significantly across families of schools (from 3 to 25¹⁵). There is some correlation with overall number on roll but not a uniform pattern. Discussions with schools and services suggested that, although HLN panel strives to ensure decisions are made consistently across the county, there may be different thresholds for putting children forward for consideration¹⁶. Family SENCOs are now required to sign off school claims, but there is still a possibility of variation between their expectations of what families/schools should be able to provide themselves¹⁷.
- 4.41** Nottinghamshire devolved funding for AP (alternative provision) 3 years ago to local School Behaviour & Attendance Partnerships (SBAPs). This initiative appears to be working well in many areas. However, there is uncertainty about the degree to which different sources of funding (AFN/HLN vs SBAP) should be used to meet the needs of pupils with social, emotional and behavioural difficulties, with evidence in some areas of displacement of 'higher cost' pupils from SBAPs into the SEND system.
- 4.42** There is some risk of 'perverse incentives' in both mainstream funding systems, with higher cost placements/provision having no financial impact on devolved family/SBAP budgets.

5. KEY ISSUES

- 5.1** This review confirms that the increase in HN spend can be attributed in part to growth in the numbers of children with significant and complex needs. The low level of funding allocated to Nottinghamshire for this purpose makes it more difficult for schools/ settings and the Authority to accommodate this growth (through cost efficiencies and other developments in services and provision).

¹⁵ 37 for 2 families combined

¹⁶ External moderation of family allocation decisions is now more limited, with the EPS and SFSS having less capacity to undertake this function.

¹⁷ Family SENCOs are now being brought together at District level for some retrospective moderation activity

- 5.2** However, there is also evidence of variability across mainstream schools and settings in the way that they are responding to this challenge, and to other pressures that they face in sustaining their capacity to meet individual pupil needs.
- 5.3** There is also diminishing access to advice, support and training with current pressures on external services.
- 5.4** The review recommends that the Authority should make a specific case to the DfE with regard to its HNB allocation and the continuing lack of fairness within the national funding system. However, experience suggests that the Government is unlikely to go beyond existing mechanisms for improving allocations to lower funded Areas (3% growth cap), because of the financial impact and the political fallout of reducing allocations to higher spenders. It is therefore important that, for the short-term at least, the Authority and schools work together to get best value from the funding that is available and ensure fairness at local level.

Strategy

- 5.5** The 2015/16 SEND review focused on the quality and consistency of statutory assessment and EHCPs, relationships between agencies and other service partners, with some recommendations about improvements to commissioning processes and developments in local special school capacity. The Local Area SEND Accountability Board is built around these themes and links them to those set out in OfSTED's local area inspection framework. The Board is addressing four workstreams: EHCP/EHCP pathways; Health; Provision; and Preparing for Adulthood.
- 5.6** The Board is high level, including Council members and senior officers from a range of services/agencies. There is limited involvement from mainstream schools.
- 5.7** While many of the actions identified in the Board's strategic plan 2017-19 are worthwhile, they are unlikely to have an immediate impact on the financial and budgetary issues outlined above. This requires focused and coordinated Local Authority leadership and more active engagement with colleagues in mainstream schools and settings.
- 5.8** Currently SEND responsibilities are fragmented across the Authority and need to be brought closer together, with a stronger emphasis on education and inclusion. Strategy needs to be developed and overseen by a small core team, with a clear policy mandate and active engagement with schools and other stakeholders.
- 5.9** A key focus should be on reducing reliance on high cost placements in the I/NM special school sector. This needs to be based on a clearer analysis of current trends. Better procurement and higher-level validation of decisions will have some effect and there is scope for more active review of I/NM pupils at points of transition. However,

it will be important to ensure earlier alternative resolutions to issues, before children and parents get to this point. A particular area of concern should be the high number of pupils (with/without EHCPs) placed in EOTAS and the varying extent/quality of their educational access. Discussions with parents/carers suggested that inadequacies at this level can be a significant trigger for researching other alternatives.

- 5.10** Creating more capacity in local special schools (or in mainstream resource bases) may have a part to play, but it will be important that developments are properly focused. Just opening a new SEMH special school, for example, or a number of ASD resource bases in mainstream schools may not be the answer. Evidence from other Authorities would suggest that such provision can get quickly filled, leaving little capacity to admit other children with similar needs (and an ongoing call for I/NM placements or other alternatives). An increase in numbers of special school places in one Area may not have an impact on meeting needs in another part of the county or ensure fair access to provision for children with similar needs.
- 5.11** There is a need for a particular strand on post 16 developments to create pathways that are more coordinated, local and financially sustainable (given the high proportion of Nottinghamshire I/NM population in this phase and the likelihood of a further increase as current pupils progress from Year 11).

Decision-making

- 5.12** Nottinghamshire has had a strong tradition of devolved funding and local decision-making, with practising mainstream teachers and Heads being involved in peer support and challenge. This has been supported by a greater awareness of budget realities and a need to ensure that resources are accessed according to level of need. The Authority's statutory role has tended to focus on consideration of the need for specialist placement, with a strong expectation that schools have done everything they can to meet needs 'in-house' with external support/additional funding as appropriate.
- 5.13** The significant increase in statutory assessments over the last few years has meant that more decisions are being made at County level, which can seem very remote. Organisational changes to the SEN casework team and the limited involvement of mainstream staff in SEND Panel decisions have tended to reinforce this. There are potentially two parallel decision-making systems that are not properly coordinated. There is also a risk that increasing number of referrals to County Panels (including HLN) will be associated with a move away from local solutions.
- 5.14** While current local area structures and practice may not be perfect, they provide a strong platform on which to build and a positive forum for local collaboration. This review recommends that these are reviewed and reinforced, and that connections are re-established between local areas and SEND officers working at county level.

Clearer focus on exceptional needs

- 5.15** Nottinghamshire's mainstream funding systems for SEND were developed around the notions of 'exceptional' and 'predictable' needs. This distinction reflected the changing population of pupils in mainstream schools and the need for all schools and settings to cater for a broad range of difficulties. Additional funding and specialist provision was focused on pupils with significant/complex/long-term difficulties who might 'pop up anywhere'.
- 5.16** Children with moderate/specific learning difficulties, speech and language difficulties and a range of pupils with social, emotional and behavioural needs would generally be seen as part of the 'predictable' group¹⁸.
- 5.17** Autistic spectrum disorders present a challenge to this distinction as their needs tend to be defined as 'complex' because of this label. In practice, numbers of children being given this diagnosis have risen so steeply that most/all schools have at least one such pupil. Schools and settings need to have the skills and confidence to understand and address these types of difficulty and work positively with parents/carers to meet their needs. Some present challenges that are very difficult for any school to address and these would be seen as within the 'exceptional' category.
- 5.18** There was some evidence from this review that these distinctions need to be revisited and more consistently applied, particularly as there has been significant turnover of Heads and SENCOs since the systems were originally introduced.
- 5.19** There would also be benefits in this language being extended across phases (ie into Early Years and Post 16) to ensure more common thresholds for accessing additional funding and other HN provision, and to support greater continuity in resource allocations.

Challenge and support

- 5.20** There is an expectation here of consistent and high quality mainstream provision for pupils with predictable needs, along with effective use of additional funding and support. In a large Local Authority area such as Nottinghamshire, there is bound to be some variability. However there was evidence from this review that there are significant differences in capacity and the priority given by schools/settings to ensuring effective practice. Some SENCOs have an important and established leadership role. Others are more marginal. Some schools/settings make every effort to meet the full range of needs, working creatively to solve problems. Others are more inflexible.

¹⁸ Which is why it is surprising that such a large number have EHC plans (see Table 5/para 4.8 above)

- 5.21** While there may be practical/temporary reasons for these differences, it is important to be aware that, where there are less well-established and effective in-house responses, there are likely to be greater calls for additional funding and/or specialist provision. Within a finite High Needs budget, which is already under pressure, all schools are having to pay for this.
- 5.22** Effective challenge and support is therefore an important element in ensuring that High Needs funding is equitably and properly managed. Nottinghamshire has a range of opportunities for peer support and challenge through its family and SBAP systems. School staff interviewed valued these highly, with family SENCOs playing an important role. However, there may need to be a more coordinated Local Authority process for challenging practice in some schools where there are significant issues (particularly where there are no other major quality concerns)¹⁹.

Pre-emption

- 5.23** There has been a strong call in the national reforms (and local strategic plan) for more effective multi-agency working. While this is a welcome policy intention, schools felt that they are increasingly having to address difficulties and issues on their own. In particular, reductions in health care funding and support are meaning that schools are finding it more difficult to meet physical/medical needs.
- 5.24** While other agency funding and support is decreasing, schools report that other professionals are more likely to raise expectations among parents/carers about levels of education support. In particular, some health professionals (such as paediatricians) and some social workers are happy to recommend that parents should request statutory assessments even when schools do not consider this to be appropriate. It is suggested that this will lead to '1:1' in mainstream classes, even though statutory assessments in Nottinghamshire are not needed to deliver this kind of intervention²⁰.
- 5.25** Some parents/carers interviewed had been told by Health professionals to 'apply early for special school as there is a shortage of places', in some cases naming specific establishments.
- 5.26** Parents/carers can be heavily influenced by advice from high status professionals. It is therefore important that such advice is appropriate and valid. More work is needed with other agencies (particularly in the induction of staff new to the area) to ensure they are familiar with the Authority's funding systems and that they do not pre-empt the established processes for making placement decisions.

¹⁹ There are signs that the DfE is considering the need for a more robust quality assurance framework for SEND in mainstream schools

²⁰ And national research indicates that this is not necessarily beneficial

- 5.27** At a broader strategic level, there can be an impact on the High Needs budget from funding decisions, policy and its application decisions made by health partners. This, alongside diagnostic procedures and parental expectations of a significantly different service offer post-diagnosis, makes the interaction between health, schools and academies and the Local Authority important in meeting need and managing the High Needs budget and is an area which needs continued attention to developing strong partnership.

6. WAYS FORWARD

Costs of doing nothing

- 6.1** In the short-term, High Needs overspends have largely been addressed by top-slicing mainstream school budgets and devolved funding for SBAPs and families of schools. Longer-term, this approach is going to mean less capacity for local intervention and more escalation of problems with higher costs. If spend on I/NM special schools is not reduced or controlled, then there could be an increasing overload on local state-funded provision and a devaluation of funding and quality. This in turn may mean continuing reliance on high cost external providers to meet more complex and significant needs. Reactive and demand-led responses to the issue threaten equity of resourcing and good practice and are likely to lead to continuing/increased overspends.

Nottinghamshire's HNB allocation: case for an increase

- 6.2** The Authority should present a specific case to the DfE for a more substantial increase to its HNB allocation, given that it is still considerably less-well funded than many of its comparators. This should be in addition to any more generalised case for funding increases being made through national organisations (Local Government Association; Association of Directors of Children's Services). Nottinghamshire has traditionally been well-regarded by the DfE for its innovative systems and practice. By contrast to some other higher spending Authorities, it has managed SEND well and should not be penalised for this success.

Reducing reliance on high cost placements in the I/NM special school sector

- 6.3** The Authority should conduct a more detailed analysis of reasons for recent I/NM placements in order to clarify needs that cannot currently be met in local provision. It should examine carefully what developments are needed to strengthen local alternatives, so that these have the maximum impact.

- 6.4** It should undertake a detailed review of EOTAS provision in order to assess quality and sufficiency of educational access. Implications should be discussed with services and schools.
- 6.5** Services should give priority to working with schools/settings to identify at an early stage cases where placements in I/NM schools are being discussed and considered. Parents/carers should be made aware of the alternative options and the benefits of local inclusion.
- 6.6** The Authority should continue to ensure that any proposals for I/NM placements are checked and validated at a senior officer level, with the opportunity to consider other (funded) alternatives where possible.
- 6.7** More active reviews of pupils currently placed in I/NM special schools should be carried out at key points of transition.
- 6.8** Further work should be undertaken to strengthen procurement processes to help control costs of existing/new placements, drawing on the new commissioning framework being developed across the East Midlands Region.

A more focused strategy for local management of HN spend

- 6.9** The Authority should identify a small group of officers with responsibility for HN strategy development and implementation. This should be overseen by a member of the Children's Services Senior Leadership Team, with a clear mandate and terms of reference. There should be a link to the SEND Accountability Board, so that this can be informed by and contribute to developments.
- 6.10** A specific subgroup should be formed for Post 16, encompassing school as well as college provision. There should be an emphasis on ensuring positive and inclusive local pathways, with specialist provision being reserved for pupils/students with the more complex/significant needs. There should be a stronger focus on progression and value.
- 6.11** Consideration should be given to the development of District strategic groups, involving representatives from schools, to review local HN spend and look at ways of achieving best value. Groups could be involved in shaping local provision to help meet needs within the indicative budget for each Area. There was positive support for this suggestion at the Area schools discussions, with the recommendation that groups should be more formally aligned to existing Area Heads meetings and well-connected to Schools Forum.

- 6.12** The Authority should further develop its management information and reporting systems in order to provide a more regular and ongoing picture of placement trends and HN spend, at both county and Area level.

Local area decision-making

- 6.13** Consideration should be given to a move to an Area decision-making model for allocation of additional funding to mainstream schools. This would involve a two stage process, with initial moderation at family of schools level and final decisions made by an Area Panel composed of family SENCOs and support service/officer representatives. HLN and AFN funding would be combined into a single Area budget based on DfE HN indicators.
- 6.14** This model would help ensure a more consistent focus of HN funding on pupils with exceptional needs and promote more common thresholds/expectations across families and schools in the Area.
- 6.15** Family SENCOs would continue to play a key role in this process and would need to be funded accordingly, with a common core job description.
- 6.16** The Authority should review its current SEND casework structure. This should include officers with relevant educational experience who could attend Area Panels and be a point of communication with other administrative colleagues in the County team.
- 6.17** Again there was positive support for these proposals at the Area schools discussions.

A more consistent high quality mainstream offer

- 6.18** The Authority should develop a more systematic approach to school improvement in the SEND area. There should be a clearer and agreed quality assurance framework which would help identify and disseminate good/outstanding practice and provide clearer evidence where there are particular concerns. Support services (EPS and SFSS) should develop a more systematic approach to evaluating their impact at school level.
- 6.19** More consistent professional development and training should be made available, with more opportunities provided at Area level, to promote and reinforce local networking.
- 6.20** Consideration should be given to a more formal structure for developing school capacity to meet the needs of pupils with ASD (drawing on nationally available materials eg Autism Education Trust or SCERTS).

Engagement of parents/carers and other stakeholders

- 6.21** There should be more opportunities for parents/carers to understand and discuss Nottinghamshire's approach to meeting HN, and to provide feedback on their current experience/contribute to developing solutions. This could be organised via Parent Carer Forum and/or the Authority's Information, Advice and Support Service (Ask Us). This would help foster more collaborative and constructive relationships rather than adversarial ones. Schools should consider offering similar opportunities at local level.
- 6.22** The Authority should hold further discussions with Health and Social Care to help reduce pre-emption and inappropriate professional advice. Consideration should be given to including an input on Nottinghamshire's SEND policy/approach in induction programmes for new staff.

Appendix 1: List of interviewees:

Education Directorate

Marion Clay: Service Director (Education, Learning & Skills)
Linda Foster: Group Manager (Education, Standards & Inclusion)
Charles Savage: Principal Educational Psychologist
Karen Hughman: Team Manager (Fair Access)
Simon Ray: Acting Head of Schools and Families Specialist Service (SFSS)
EPS Management Team
Fair Access officer team
SFSS senior practitioner team

Commissioning & Resources Directorate

Laurence Jones: Service Director (Commissioning and Resources)
Jill Norman: Group Manager (SEND)
Chris Jones: SEND Strategic Development Lead
Katie Marsden: Team Manager: Integrated Children's Disability Service
John Hawketts: Group Manager (Placements and Commissioning)
Ruth Marriott: Commissioning & Contracts Manager
Jude Burgess: Strategic Early Years Manager
Nicky Palmer: EYS SEN lead
Louise Benson: Post 16 SEND/FE college link
ICDS casework team

Finance

Sue Summerscales: Senior Finance Business Partner (Resources)
Steve Hawkins: Finance Business Partner (Schools)

Early Years providers

Group of managers of PVI settings (3)

Mainstream schools

Area meetings (7) with Heads and SENCOs (most schools attended)
Meeting with MAT Chief Executives/senior leads and Diocesan Directors
Meeting and phone discussions with Family SENCOs (7 from different areas of the county)

Special schools

Meeting with 5 Heads/senior managers and Matt Rooney (Special school place planning)
Discussions with those attending Area Heads groups

FE colleges

Visit to West Notts College (interview with ALS and Finance leads)
Visit to Portland College (interview with Principal and senior leadership)

Independent/non-maintained providers:

Visit to REAL Education (interview with Director)

Parents/carers:

Meeting with group of parents/carers (8) (organised by Parent Carer Forum)

Appendix 2: Documents consulted

Report to Schools Forum: 8th June 2017: Projected budget pressures on the 2017-18 high needs block

Report to Schools Forum:

2015/16 SEND Review: Key Findings and Recommendations
Nottinghamshire SEND Strategic Action Plan 2017-2019

Nottinghamshire Local Area SEND Accountability Board: Terms of Reference

Nottinghamshire Children, Families and Cultural Services Plan (2017-18)

Reference to latest DFE HN Benchmarking tool for named group of Authorities

Clarification of HN 'spend' for each Area of the county

Comparison to expected Area share of overall spend, using national HN funding indicators