

Future of free schools

House of Commons

19 June 2019



Key messages

- All children deserve access to the best possible education. Data shows that councils play a vital role in improving schools. Eighty nine per cent of maintained schools are now rated as either good or outstanding.¹ Council-maintained schools receive better Ofsted ratings, than other types of schools, including free schools.
- Councils should have the lead role in decisions on the location of new free schools. The ban on them opening new maintained schools should be ended and they should again be allowed to directly commission the building of new schools, including new council-maintained schools if that is what parents want.
- The Government should take advantage of councils' position in the community in order to give them a clear and strategic role in school improvement and holding schools to account for education standards. Councils know their local schools best and are uniquely placed to offer up to date local knowledge. Local government must be empowered to help all schools improve where necessary.
- Councils have created an extra 800,000 new school places since 2010.² This is a good record that shows they are doing everything they can to rise to the challenge within the current financial constraints, ensuring no child goes without a place. Councils and schools work extremely hard to ensure that as many pupils as possible are allocated their first preference.
- We were pleased the Government recognised LGA concerns and allocated an additional £1.3 billion to schools during 2018-19 and 2019-20. The Government's commitment of £400 million capital funding for schools in England last year and the additional investment of £350 million across 2018/21 on high needs provision were welcome. Whilst individual amounts of additional school funding are welcome, the Government needs to replace the existing highly fragmented school capital funding system with a single local funding pot.
- We remain concerned that the introduction of the National Funding Formula (NFF) which will see the budgets of 22,000 schools set in Whitehall, combined with changes to High Needs Funding, will exacerbate existing shortfalls in funding to support children and young people with SEND.
- Councils continue to highlight pressures on the High Needs funding block as one of the most serious financial challenges they are facing. LGA commissioned research³ found that councils are facing a high needs funding shortfall of £667 million in the 2019-20 financial year and this funding gap could rise to £1.6 billion by 2021.

Briefing

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Background information

School improvement

Councils are using a variety of models to work with schools to establish authority-wide school improvement partnerships and have encouraged and supported schools to work in local clusters, federations, multi-academy trusts (MATs) and teaching school alliances⁴. Councils stand ready to work with the Government and other partners to support any failing school in their area, irrespective of whether these schools are maintained, academies or free schools.

Council oversight

Councils have an excellent track record in improving schools, and should be given the necessary powers to intervene and support schools. According to analysis published for the LGA last month, council-maintained schools receive better Ofsted ratings, and improve more quickly, than other types of schools⁵. Eighty nine per cent of maintained schools are now rated as either Good or Outstanding, this compares to eighty six per cent of free schools. The report, published by Angel Solutions considers how primary and secondary schools' Ofsted grades have fared over the past five years, comparing those which remained council-maintained to other schools. It also found that schools that were rated as requires improvement or inadequate were more likely to become good or outstanding if they remained council-maintained.

School funding

The funding pressures facing schools are well known, with teacher and parent-led campaigns continuing to receive extensive coverage in the media. The Institute for Fiscal Studies estimates schools will see a real terms cut of 4.6 per cent in schools funding between 2015 and 2019.⁶ The recent Education Policy Institute report⁷ on the state of school finances in local authority and academy schools in England also found that almost a third of local authority maintained secondary schools are in deficit. Given these funding pressures, it is vital that schools and councils are given certainty over future funding, to help them better plan for the spending pressures they face.

We welcomed the commitment of £400 million for schools in England to spend on equipment and facilities, announced in the 2018 Budget. While small amounts of additional school capital funding are welcome, the Government needs to go much further and replace the existing highly fragmented school capital funding system with a single local funding pot, bringing together existing programmes to create additional places, and rebuild, maintain and repair schools.

We support the principle of an NFF to ensure fairness of funding between different areas. We remain concerned that the NFF, which came into effect in April 2018, will not address the significant budgetary pressures that schools are currently experiencing. As the funding system takes shape, councils have a key role to play in helping schools with the transition. The current local flexibility allowed under the 'soft' implementation of the new NFF formula must continue beyond 2020 to allow councils to work with schools locally make sure that it addresses local needs and priorities.

Local government leaders support the national funding formula but are clear that setting 22,000 school budgets on a 'one size fits all' national formula decided remotely in Whitehall will not work. Councils work closely with their local schools and are uniquely placed with up to date local knowledge to ensure funding is distributed fairly. They must retain some flexibility to agree with schools a slightly different allocation of funding from that dictated by the national formula if that produces better outcomes for schools and pupils.

Councils are particularly concerned about the recent changes to high needs funding which will reduce council and school flexibility to make additional funding available where there are

rising demand pressures for special educational needs and disability (SEND) support. Since 2014 the number of children and young people with statements or Education, Health and Care Plans (EHC) increased by 21.1 per cent, from 237,111 to 287,290.⁸ The proportion of pupils with SEND who attend special schools has increased from 5.6 per cent in 2012 to 8.8 per cent in 2017.⁹

We were pleased with the Secretary of State's recent commitment to make the case to the Treasury for improved funding for schools as part of the Spending Review¹⁰. We hope that this will provide greater financial certainty for schools and local authorities across the country.

School provision

Since 2010, councils have created an extra 800,000 new places. The school capacity figures for 2016/17 demonstrate that councils have an excellent track record of fulfilling their statutory duty to ensure every child has a school place available to them.¹¹ Councils and schools work extremely hard to try and ensure that as many pupils as possible are allocated their first preference.¹² If we are to meet the demand for school places, councils should be given back the powers to open new maintained schools and existing academy schools should expand where required.

The Government should take advantage of councils' unique position in the community, to give them a clear and strategic role in school improvement and holding schools to account for education standards. Local government must be recognised as an improvement partner. This means being empowered to help all schools improve where necessary, including academies and free schools. We have also called for councils to have greater powers over school places and a say on where new schools are built.

High needs funding

Councils are particularly concerned about the changes to high needs funding which will reduce council and school flexibility to make additional funding available where there are rising demand pressures for SEND support.

The proportion of pupils with SEND who attend special schools has increased from 5.6 per cent in 2012 to 8.5 per cent in 2016 and the proportion in independent schools has moved from 4.5 per cent to 6.3 per cent. By their very nature, these places are more expensive than mainstream provision.¹³ Since the Children and Families Act became law in 2014, the number of children and young people with statements or EHC plans increased by 21.1 per cent from 237,111 to 287,290. The number of children being educated at home has also been increasing.

The creation of additional new school places for children with special educational needs announced recently will help to alleviate some of the pressures facing mainstream schools. Education providers, the Department for Education (DfE) and Education and Skills Funding Agency should work closely with councils to ensure these new schools are built where demand is most needed.

If councils do not receive sufficient funding to cover high cost SEND, they will not have the resources to allocate extra funds to highly inclusive schools that take higher than average numbers of pupils with additional needs. Equally, mainstream schools may find it difficult to accept or keep pupils with SEND because they cannot afford to subsidise the provision from their own budgets, as they are already under significant pressure.

The LGA commissioned the Isos Partnership, an independent consultancy, to undertake research looking at the high needs funding pressures facing councils. The findings show that councils are facing a high needs funding shortfall of £667 million for 2019-20 and this funding gap could rise to £1.6 billion by 2021. We are concerned that unless additional funding is

made available, councils will not be able to meet their statutory duties to support children with SEND.

We are pleased that the Department for Education (DfE) is reviewing the funding arrangements for pupils with SEND and those who need alternative provision (AP). It is a vital opportunity to consider how the financial arrangements could be improved to help local authorities, schools, colleges and other providers in supporting children and young people.

¹ Angel Solutions on behalf of LGA,

<https://www.local.gov.uk/sites/default/files/documents/Academies%20and%20LA%20maintained%20schools%20-%202019%20WEB.pdf>

² School Capacity 2017: academic year 2016/17, Education and Skills Funding Agency, SFR 07/2018 15 March 2018, <https://www.gov.uk/government/statistics/school-capacity-academic-year-2016-to-2017>

³ Isos Partnership, Have we reached a 'tipping point'? Trends in spending for children and young people with SEND in England,

<http://www.isospartnership.com/uploads/files/LGA%20HN%20report%20corrected%2020.12.18.pdf>

⁴ www.local.gov.uk/enabling-school-improvement

⁵ Angel Solutions on behalf of LGA,

<https://www.local.gov.uk/sites/default/files/documents/Academies%20and%20LA%20maintained%20schools%20-%202019%20WEB.pdf>

⁶ Reported in: 'School funding in England will have fallen nearly 5% in real terms by 2019, says IFS', The Independent, 18 July 2017

⁷ Education Policy Institute, School revenue balances in England, <https://epi.org.uk/publications-and-research/school-revenue-balances/>

⁸ <https://www.gov.uk/government/statements-of-sen-and-ehc-plans-england-2017>

⁹ <https://www.gov.uk/government/statistics/special-educational-needs-in-england-january-2017>

¹⁰ Damian Hinds', 2019 NAHT conference speech, <https://www.gov.uk/government/speeches/damian-hinds-speech-at-the-2019-naht-conference>

¹¹ Department for Education, School capacity: academic year 2016 to 2017

(<https://www.gov.uk/government/statistics/school-capacity-academic-year-2016-to-2017>)

¹² LGA media release, April 2018 (<https://www.local.gov.uk/about/news/councils-respond-number-children-securing-first-choice-primary-school-places-0>)

¹³ <https://www.gov.uk/government/statistics/special-educational-needs-in-england-january-2016>