

# **A consultation on school funding reform: Proposals for a fairer system**

Consultation Response Form

The closing date for this consultation is:

11 October 2011

Your comments must reach us by that date.

**THIS FORM IS NOT INTERACTIVE. If you wish to respond electronically please use the online response facility available on the Department for Education e-consultation website (<http://www.education.gov.uk/consultations>).**

The information you provide in your response will be subject to the Freedom of Information Act 2000 and Environmental Information Regulations, which allow public access to information held by the Department. This does not necessarily mean that your response can be made available to the public as there are exemptions relating to information provided in confidence and information to which the Data Protection Act 1998 applies. You may request confidentiality by ticking the box provided, but you should note that neither this, nor an automatically-generated e-mail confidentiality statement, will necessarily exclude the public right of access.

**Please tick if you want us to keep your response confidential.**

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If you have an enquiry related to the policy content of the consultation you can contact either

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Juliet Yates on: Telephone: 020 7340 8313 e-mail: [juliet.yates@education.gsi.gov.uk](mailto:juliet.yates@education.gsi.gov.uk),

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Consultation Unit by e-mail: [consultation.unit@education.gsi.gov.uk](mailto:consultation.unit@education.gsi.gov.uk), by Fax: 01928 794 311, or by telephone: 0870 000 2288.

Please tick the box that best describes you as a respondent.

|   |  |  |
|---|--|--|
| <input type="checkbox"/> Maintained School          | <input type="checkbox"/> Academy                               | <input type="checkbox"/> Teacher               |
| <input type="checkbox"/> Individual Local Authority | <input type="checkbox"/> Schools Forum                         | <input type="checkbox"/> Local Authority Group |
| <input type="checkbox"/> Teacher Association        | <input type="checkbox"/> Other Trade Union / Professional Body | <input type="checkbox"/> Early Years Setting   |
| <input type="checkbox"/> Governor Association       | <input type="checkbox"/> Parent / Carer                        | <input type="checkbox"/> x Other               |

If 'Other' Please Specify: **Natspec represents 70 independent specialist colleges (ISCs) making further education provision for learners with complex learning difficulties and/or disabilities whose learning and support needs cannot be met through local general further education (GFE) or work based learning (WBL) providers. 3,500 learners are funded through the YPLA matrix in 57 member colleges; other members include independent special school units and sixth forms. These colleges are not incorporated as FE colleges within existing legislation and they have a wide range of ownership and governance arrangements, including national and local charitable status and publicly or privately owned companies.**

**We have only responded to the questions raised in chapter 6, which has relevance to our sector, and specifically to the aspects that impact on post-16 provision**

## Chapter 6 - Children and Young People requiring high levels of support

### Principles

Paragraph 6.7 sets out the high level principles behind the proposals for funding children and young people with high levels of need.

**Question 23: Is this the right set of principles for funding children and young people with high needs?**

Yes

No

x Not Sure

#### Comments:

In general, we welcome and support these principles. However, we would like to comment on specific aspects as follows:

**Principle 1:** The need for impartial assessment is paramount, but we are increasingly concerned that this is not available to young people and their families. We would suggest a number of reasons for this, including the demise of Connexions and the associated loss of expertise and knowledge; the clearly stated aims of many LAs to reduce 'out county' placements, as a matter of policy and without reference to an individual's needs and where they can best be met and the increasing role of LAs as both commissioners and funders, thus bringing into question the impartiality of the assessments they undertake. The recent Ofsted post-16 LLDD survey indicated that the current placement process, which depends on the completion of the S139A (LDA), has many significant failings

**Principle 4:** we welcome the acknowledgement that needs can change and agree that support can often be reduced as young people become more independent. However, we also know that at key points, such as transition or meeting new challenges (going on work experience or moving into new accommodation), support needs can increase. So the system must be flexible enough to move both ways.

**Principle 5:** we support this principle and agree that the lack of joined up planning and funding has reduced the opportunities available to children and young people. We welcome the aspiration of the Green Paper to address this. However, promotion of inter-agency co-operation is nothing new and has been advocated since the Warnock report in 1972. Without the backing of legislation to require agencies to work together and to jointly fund, we cannot see that anything will change. Joint inter-agency approaches are especially important for young people with the most complex needs, who require a specialist, often residential setting where their learning, support, care and medical needs can be met. A recent report by the NFER, commissioned by the LGA, clearly demonstrated the value and benefits of residential provision for this group

of learners - <http://www.nfer.ac.uk/publications/LGRC01>

**Principle 7:** we agree that consistency is important so that young people and their parents/carers can have confidence in the system. We believe that only a national system, working to nationally agreed procedures and processes, can be truly consistent and avoid the risks of a post-code lottery.

**Principle 8:** Specialist colleges are currently subject to full inspection by Ofsted, comprehensive audit by the YPLA (based on the detailed support given to individual learners) and, where there is residential provision, inspection by CQC. We understand that commissioners will want assurance that the provision is meeting the needs of young people and is enabling them to achieve their aspirations and positive outcomes.

However, as most ISCs work with a large number of LAs (the average is 21 LAs), they will be inundated with requests for monitoring visits or forms to complete, each with slightly differing expectations and requirements. In order to reduce the administrative burden on colleges and LAs, we suggest that either the host LA, or the LA placing the largest number of learners, should undertake this role on behalf of all other commissioning LAs. In addition, we believe that it would be helpful if LAs and colleges worked together to establish a mutually useful and manageable process, making the best use of existing information from other inspection regimes.

**Principle 9:** we accept that unsuccessful institutions cannot be funded indefinitely, but would welcome a clearer definition of what constitutes 'unsuccessful'. Would this be linked to inspection outcomes, and how long might be allowed for organisations to demonstrate improvement?

We welcome the acknowledgement of the costs associated with maintaining and developing specialist provision. Currently ISCs carry 100% of the risks, and an element of protection would bring some welcome stability.

### A Base Level of Funding for High Needs SEN

Paragraphs 6.11 to 6.18 discuss proposals to set a base level of funding to reflect high needs SEN.

**Question 24: Would it be appropriate to provide a base level of funding per pupil or place to all specialist SEN and LD/D settings, with individualised top up above that?**

Yes

No

x Not Sure

Comments: we agree that there would be some merits in this approach, but we have responded in detail in Q26, 27 & 29.

We have an additional comment to make on 6.9d, which we feel is slightly at odds with the rest of the analysis, in that it links two entirely separate funding streams.

We also know that although budgets have not yet passed to LAs, many LAs behave as if they have, and have reduced ISC placements as a matter of policy (see our comments above re principle 1)

Finally, there is a misconception about 'high cost' placements, with wildly exaggerated claims being made about specialist college costs. The most recent analysis of the 57 YPLA funded colleges shows:

| Band | Day                     | Residential              |
|------|-------------------------|--------------------------|
| D    | £13,186                 | £26,689                  |
| E    | £17,841                 | £36,249                  |
| F    | £22,495                 | £42,303                  |
| G    | £32,967                 | £49,069                  |
| H    | £45,247                 | £68,829                  |
| H+   | Range £51,000 - £80,000 | Range £77,000 - £168,000 |

18 colleges have residential learners in 4 or more different bands

12 colleges have day learners in 4 or more different bands

41 colleges have H+ residential learners

38 colleges have H+ day learners

2013 residential learners are recorded, of which 752 (37%) are in H+

1220 day learners are recorded, of which 421 (34%) are in H+

438 residential learners (21%) are in bands D, E & F (max £42,303)

103 day learners (8%) are in the bands D, E & F (max £22,495)

**Based on 57 colleges, with some placements still awaiting final confirmation**

**Question 25: Is £10,000 an appropriate level for this funding?**

Yes

No – too high

No – too low

Not Sure

Comments: see Q 26

Applying this approach to post-16

Paragraphs 6.19 to 6.21 discuss proposals for funding high needs pupils to post -16 pupils.

**Question 26: Is the idea of a base rate of funding helpful in the post-16 context?**

Yes

No

Not Sure

Comments: we think this might be a helpful approach but the rate is too low in a specialist college setting, and the proportion of fees it would cover varies from 37% of a residential band D, 14.5% of a residential band H and a mere 5.9% of the top rate residential H+.

We welcome in 6.21 the importance of choice and the need to maintain 'high quality specialist provision and residential provision'. We believe that choice should extend to choosing a specialist college away from the home area, a choice routinely made by many young people who do not have learning difficulties or disabilities.

Natspec is currently working with the YPLA to establish a more appropriate base rate of funding which takes account of the extended learning opportunities offered in a specialist (especially residential) college, and of the overhead costs.

**Question 27: Should local authorities be directly responsible for funding high level costs over £10,000 for young people in post-16 provision in line with their commissioning responsibilities?**

Yes

No

Not Sure

Comments: see our comments above about the proposed base rate of funding.

In addition, we have major concerns about the proposal to put funding into LAs. There is much evidence (Ofsted post-16 survey report, NFER report) that the current

process of S139As produces assessments of poor quality, which are inconsistent and unhelpful to providers. We have no confidence in this system and in the impartiality of LAs acting as both commissioners and funders. We believe that funding should remain with the YPLA/EFA and be managed centrally, in order to improve confidence in the system.

We are particularly concerned at the bureaucratic burden that such a system would entail. Figures from 2010/11 show that 34 specialist colleges had learners from 10 or more LAs, while a further 14 had learners from over 30 LAs, with the highest number being 61. On average, ISCs had learners from 21 LAs, and when liaising with LAs, colleges often find that they have to work across three different departments. The administrative arrangements for working with such a large number of LAs would be complex and unacceptable. The same concerns are shared by GFEs, which also work with large numbers of LAs. We also note that para 6.33 of this consultation acknowledges the complexities of working with a number of LAs. Option c does include the possibility of the EFA acting as a channel for funding, but our strong preference would be for the funding to remain with the EFA and not be transferred, either actually or virtually, to LAs.

Natspec's work with the YPLA is also looking at bringing the ISC funding approach into line with other post-16 providers whilst ensuring an equitable approach to funding additional learning support. We understand that additional funding may be sought from other agencies, such as social services and health. However, we are concerned that the current difficulties of securing such funding will remain unless there is legislation to support joint funding.

**Question 28: Do the proposed funding arrangements create risks to any parts of the post-16 sector?**

Yes

No

Not Sure

Comments: see our responses above, in particular concerning the low base level funding and the bureaucratic burden of working with large numbers of LAs.

## Funding by Places or Pupil Numbers

Paras 6.22 to 6.26 discuss whether institutions providing for high needs children and young people should be funded on the basis of planned places or pupil numbers. It also sets out four options for doing so.

**Question 29: Should institutions providing for high needs children and young people be funded on the basis of places or pupil numbers?**

Places

Pupil Numbers

Not Sure

Comments: the concept of 'places' is not generally used in FE, as colleges can be responsive to need in a number of ways. They are not registered for a certain number of students, except in relation to the numbers registered with CQC. Research earlier this year (58% return) showed that colleges were on average operating at about 90% of planned numbers, although half were at 95% or over, with a few significantly below. However, the basis for these figures varied from registered bed spaces to planned or target numbers.

There are differing views across the sector, with some colleges preferring student numbers and others preferring places as the basis for funding. If the places option was used, colleges would have to agree place numbers, possibly through negotiation with the EFA on the basis of previous numbers, either the year immediately preceding, or averaged over the previous 2 or 3 years.

**Question 30: Are any of options (a)-(d) desirable?**

(a)

(b)

(c)

(d)

None

Not Sure

Comments: this is perhaps the preferred option, as it would give some stability to colleges over time; however, please note earlier comments on the low level of base funding

## Funding Special and AP Academies and Free Schools

Paragraphs 6.27 to 6.39 discuss how funding for special and AP Academies and Free Schools should be managed in the short term and, in the longer term, whether funding should be routed through the Education Funding Agency (EFA) or the commissioner.

**Question 31: For the longer term, should we fund Special and AP Academies and Free Schools:**

- a) with all funding coming direct from the commissioner?
- b) with all funding coming through the EFA and recouped from the commissioner?
- c) through a combination of basic funding from the EFA and top-up funding for individual pupils direct from the commissioner?

(a)

(b)

(c)

Neither

Not  
Sure

Comments:

**Question 32: If we go for the combination funding approach, should we pass all funding through the EFA for a limited period while the school is establishing itself before moving to this approach?**

Yes

No

Not Sure

Comments:

## Constructing the High Needs Block for local authorities

Paragraphs 6.40 to 6.47 propose a new formula for determining the High Needs Block building on the research carried out for the Department by PricewaterhouseCoopers in 2009.

**Question 33: Given there is no absolute method of determining which pupils have high needs, and given local variation in policy and recording, is this approach to determining proxy variables acceptable?**

Yes

No

Not Sure

Comments: we welcome this research, which confirms our view that the location of low incidence disabilities is difficult to predict and random. We understand that deprivation is not the most significant factor – young people with disabilities or learning difficulties may be deprived, or may be disengaged, but they are not necessarily either of these in greater proportions than the rest of the population. However, we do know that disabled adults are more likely to be poor, which is why we believe it is so important that they are able to access good education in order to enable them to maximise their independence in the future.

**Question 34: Do you agree that deprivation is linked more to AP rather than the wider SEN needs?**

Yes

No

Not Sure

Comments: see 33 above

Paragraphs 6.48 to 6.49 suggest the need for substantial transitional arrangements in moving to a new formula as the formula will fail to reflect the spend of local authorities on high need pupils.

**Question 35: Do you agree that in the short term we should base allocations to local authorities for the high needs block largely on historic spend?**

Yes

No

Not Sure

Comments:

*Post-16*

Paragraph 6.50 proposes aligning pre- and post-16 funding for high needs pupils over time.

**Question 36: Do you agree that post-16 funding should also become part of the local authority's high needs block over time, but that there might be a particular need for transitional arrangements?**

Yes

No

Not Sure

Comments: we have made the case earlier for this budget remaining in EFA control and not passing to LAs. However, we do agree that any changes to funding need to be subject to transitional arrangements, not least because of the uncertainty that such changes create for young people and their families.

**Question 37: What data should ideally underpin the funding allocations both initially and for a potential high needs block arrangement?**

Comments:

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

x Yes

No

All DfE public consultations are required to conform to the following criteria within the Government Code of Practice on Consultation:

Criterion 1: Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2: Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5: Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7: Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any comments on how DfE consultations are conducted, please contact Carole Edge, DfE Consultation Co-ordinator, tel: 01928 738060 / email: [carole.edge@education.gsi.gov.uk](mailto:carole.edge@education.gsi.gov.uk)

**Thank you for taking time to respond to this consultation.**

Completed questionnaires and other responses should be sent to the address shown below by 11 October 2011

Send by e-mail to: [schoolfunding.consultation@education.gsi.gov.uk](mailto:schoolfunding.consultation@education.gsi.gov.uk)

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