

Committee:	School Forum
Meeting Date:	3 October 2017
Title:	Suffolk Policy for Funding Recoupment for Permanent Exclusions
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Decision making / consultative / information:	Decision Making
Who can vote?	All Forum members

What is the Forum being asked to decide?

1. Suffolk's current policy on recouping funds for permanently excluded pupils does not align with the new School and Early Years Finance (England) Regulations 2017 nor is it workable in a system where some schools are academies.
2. The Forum is asked to agree a new local policy that will apply to all settings, using the principle that funding 'follows the pupil' where a child or young person has been permanently excluded from either a maintained school or an academy. This is to enable the receiving school to be adequately funded or Local Authority to provide an education for these pupils whilst they are not able to attend mainstream school.

There are two key decisions required:

Decision 1 – Establishing a new policy for financing education for permanently excluded pupils

3. To agree a revised policy that aligns to the School and Early Years Finance (England) Regulations 2017 and which can be universally applied across all settings in Suffolk. The policy will set out the arrangements for the transfer of funding between a school and the Local Authority, or receiving school, when a school permanently excludes a pupil.
4. As the School and Early Years Finance (England) Regulations 2017 are only applicable to maintained schools, Schools' Forum needs to approve a local agreement to establish a policy that applies to all settings, therefore Forum is asked to agree that the policy put in place will apply to all schools

regardless of their status, therefore ensuring that the arrangements for funding excluded pupils are consistent, equitable and fair to all settings.

5. **Decision 2 – To agree the levels of funding to be transferred from school budgets to the receiving school or Local Authority to support permanently excluded pupils**

The current arrangements for calculating the amount of transfer are not in line with 2017 regulations. Forum is therefore asked to agree that the amount of funding transferred to the receiving school or Local Authority by the school/academy at the point of permanent exclusion is the greater of the 'funding attributable to a pupil of the same age and personal circumstances' as per the 2017 regulations or the sum of £2,000 + AWPU (pro-rata) – the current level of funding agreed under the existing exclusion policy.

Reason for recommendation

6. The policy that Suffolk currently uses for recoupment of funds, where pupils are permanently excluded, was agreed by an Executive Committee on the 3 February 2005. This policy is now out of date. It is not aligned to the newly published School and Early Years Finance (England) Regulations 2017 and does not accommodate the establishment of academies.
7. The 2005 committee agreed that schools would transfer £2,000 to the Local Authority or receiving school in addition to the remaining AWPU when they permanently excluded a child. This arrangement is still operating.
8. The current policy is no longer workable due to there not being an agreement in place that applies to academies as well as maintained schools. This meant that during the financial year 2016-17, the Local Authority was not able to recoup from some academies the £2,000 in addition to the AWPU, due to there not being a local agreement in place. This situation creates an inequity in the system between schools that must pay, schools that choose to pay and schools that do not pay. It also impacts receiving schools.
9. If all Suffolk schools ceased to contribute this would place an additional cost pressure of over £250,000 on the DSG high needs block. Given the overspend in the High Needs Block this cannot be borne, and therefore the Authority would have no option but to implement some direct school to school transfers following an exclusion with reduced access to alternative and turnaround provision and insufficient funds in place to support the receiving school.
10. For the Authority to apply an equitable policy to funding permanently excluded pupils across all settings, there now needs to be a local agreement that this policy will apply to all schools in the area, including academies, even where this is not explicitly set out within their ESFA funding agreement.

11. The Suffolk 2005 policy currently in place does not apply the requirement for the Authority to recoup all *the funding attributable to a pupil of the same age and personal circumstances* – for example pupil premium, looked after child funding or similar. Therefore, the current policy needs to be reviewed to address this. In recognition that the existing policy already requires a school to pay £2000 in addition to AWPU (pro-rata), it is proposed that the new policy would ask a school to either transfer £2000, as previously – or the amount due as a result of additional funds linked to the pupil (eg High Needs top up, pupil premium or similar).

Alternative options

12. Decision 1 - if a local agreement is not put in place the new policy would apply only to maintained schools and those academies with a provision in their funding agreement or that choose to align their approach to that in place for maintained schools.
13. This would create an inequitable system where maintained schools were bearing more of the burden for funding the costs of alternative provision and receiving schools were not recouped for their new pupil.
14. There will be a further cost pressure on the High Needs Block. If the LA cannot recoup the funds to cover these costs it will have to reduce the number of alternative provision places available and increase the direct school to school transfers for permanently excluded pupils. This will disadvantage both schools and individual pupils.
15. Decision 2 – An alternative would be to put in place a policy where recoupment was AWPU pro rata plus other additional funding due without the £2,000 minimum threshold. However, this would reduce the overall amount of funding that could be recouped by the Authority / receiving school and therefore also result in an additional cost pressure on the High Needs Block.
16. This approach would also mean that the Local Authority would no longer be able to provide the current levels of alternative provision and therefore we would need to impose higher thresholds to access this intervention.
17. Consequently, in order to meet our statutory duty to provide a full-time education for permanently excluded pupils the Local Authority would be forced to require schools to reintegrate pupils directly from a permanent exclusion. Where there was resistance from an appropriate receiving school we would be left with no alternative but to seek a direction from the EFSA if no local alternative provision places were available.
18. To offset an overspend on the High Needs Block we could transfer money from the Central Schools Block or Early Years but both budgets are already fully committed for the next financial year so there would be implications to reducing either of these funding streams.

Who will be affected by this decision?

19. All maintained schools, academies, free schools, special schools, pupil referral units, and central high needs block services.
20. Pupils who are permanently excluded from a school and their families.

Background information

21. The number of permanent exclusions is increasing in Suffolk and has risen significantly in the last financial year from 15/16 84 to 16/17 to 128.
22. The Local Authority has a statutory duty to, “arrange suitable full-time education for the pupil to begin no later than the sixth school day of the permanent exclusion” (Exclusion from maintained schools, academies and pupil referral units in England; statutory guidance for those with legal responsibilities in relation to exclusion September 2017).
23. The increased demand has meant that the Local Authority has had to fund more out of school provision to meet our statutory duties and this is consequently placing more pressure on the High Needs Block and any potential overspend.
24. Although the £2,000 is a relatively small amount per pupil, compared to the cost of an alternative provision package, in the last financial year this should have generated £256,000 of income to fund alternative tuition and provision. However, we were not able to secure £16,000 of this amount and this figure is set to increase in financial year 2017/18. To date we have not been able to recoup £10,000 from academies and if this is replicated for the Autumn and Spring term there will be a loss of £30,000 to the EOTAS budget with the potential for it to increase.
25. The LA is proposing that the same policy and criteria will also be applicable to academies in Suffolk as a ‘local authority may ask an academy trust to enter into an arrangement for the transfer of funding for a pupil who has been permanently excluded, on the same basis as if the academy were a maintained school. The academy trust may be obliged under its funding agreement to comply with such a request’ (Exclusion from maintained schools, academies and pupil referral units in England; statutory guidance for those with legal responsibilities in relation to exclusion September 2017).
26. We are therefore asking Schools’ Forum to approve a local agreement that covers all Suffolk schools.
27. In addition, while the transfer of the pro-rata AWPU from the excluding school to the LA or receiving school is supported within The School and Early Years Finance (England) Regulation 2017, the current policy of the ‘flat rate’ deduction of the additional £2,000 is not.
28. This means the Local Authority will need to adopt the new funding formula that constitutes ‘funding attributable to a pupil of the same age and personal circumstances’ as set out in the new financial regulations.
29. In adopting this approach, the Local Authority will be compliant with the regulations and recoup the funding needed to contribute to the alternative education services. The amount would also reflect the individual circumstances of each pupil and generate a fairer funding arrangement that would better support the individual needs of the pupil.

30. By placing a lower limit on the additional contribution over and above AWPU of £2,000 the current level of service offer to all schools will be protected. Calculations indicate that if this threshold is not in place there will be significant risk of the LA not being able to maintain the current levels of recoupment.

Proposal for transfer of funding

31. The statutory guidance on exclusions from Regulation 27(1) of the School and Early Years Finance (England) Regulations 2017, cites a formula that can be employed to calculate the amount the LA can recoup from schools and academies for permanently excluded pupils. The formula is the following:

$$- \quad (A \times (B/52)) + C$$

32. **Where A** is the amount determined by the LA in accordance with this part, that would be attributable to a pupil of the same age and personal circumstances as the pupil in question at primary or secondary schools maintained by the authority for the full funding period.
33. **And B** is a measure of weeks left (hence the divide by 52).
34. **C** is the £4,000 financial adjustment order if the governing body refuses to take a pupil back after an independent review panel have advised reinstatement.
35. It is proposed the following factors would be used as '**A**'
- AWPU amount (standard amount dependant on Key Stage)
 - Pupil Premium (for individual identifiable pupil)
 - Top Up (High Tariff Needs Funding) Funding (for individual identifiable pupil)
 - Looked After Child funding
 - Deprivation funding
 - Prior Lower Attainment funding
 - English as an Additional Language

Next Steps

36. If Forum agrees the proposals for the development of a new policy for funding recoupment for permanent exclusions as set out in this paper, officers will draft a formal policy statement for formal ratification at November Forum meeting with a plan to implement from January 2018.
37. If Forum do not support the proposals set out in this paper, the Local Authority will develop alternative plans for the future management of exclusions that reflect the reduced levels of recoupment going forward, with a view to implementation of these new arrangements as soon as is practicable.